NORTH AMERICAN REVIEW.
No. CCCCXXXV.

FEBRUARY, 1893.

HOW TO REVISE THE TARIFF.

BY THE HON. WILLIAM M. SPRINGER, CHAIRMAN OF THE WAYS AND MEANS COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

No GENERAL tariff measure has been passed in this country when the Democratic party was in power in both branches of Congress, and when there was a Democratic President, since July 30, 1846, when the act known as the Walker tariff became the law of the land, more than forty-six years ago. At that time England was engaged in the work of repealing the restrictive and protective tariff laws of that country. The reduction of tariff duties was the prominent issue in politics in both countries. The measures finally adopted in England were much more radical than were the provisions of the Walker tariff, but they have remained substantially as adopted at that time until the present day; and there can be no doubt that the United States would have long since reached and adopted a tariff for revenue only, had it not been for the Civil War, which began in 1861.

The Walker tariff continued in force without change until March 3, 1857, when Congress passed an act further reducing the duties on imports.

The highest average ad valorem rate of duties on dutiable articles imported under the tariff of 1842 was in 1844, when the rate reached 36.88 per centum. In 1848, at the end of the second year of the Walker tariff, such rates were reduced to 26.28 per centum; and in 1857 the rates had been brought down to an

Copyright, 1893, by LLOYD BRYCE. All rights reserved.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

average of 22.45. After the passage of the act of March 3, 1857, the rates for the year 1858 were 22.43 per centum; and in 1861 the average ad valorem rates of dutiable articles was only 18.84 per centum.

It will be seen from this that the effect of the Walker tariff, and the amendment to it in 1857, was to produce a lower average rate of duty from year to year, which showed that the articles bearing the lower rates of duty were imported more largely than those bearing higher rates of duty.

The Walker tariff was, as stated heretofore, passed when the Democratic party was in power in all the branches of the Government. James K. Polk had been elected President, and Robert J. Walker, of Mississippi, had been appointed Secretary of the Treasury. While the Walker tariff was regarded as a Democratic measure at the time of its passage, the House of Representatives which passed the act of March 3, 1857, was composed of a majority of those opposed to the Democratic party, that House having elected Nathaniel P. Banks, of Massachusetts, Speaker. Louis D. Campbell, of Ohio, an old line Whig, was chairman of the Ways and Means Committee; and other members of that committee, whose names are well known in the country, were William A. Howard, of Michigan; Henry Winter Davis, of Maryland; Russell Sage, of New York; Howell Cobb, of Georgia; and George W. Jones, of Tennessee.

The representatives from the State of Massachusetts in 1846 voted solidly against the Walker tariff; but in 1857 the entire delegation from that State voted for the bill to further reduce the duties contained in the Walker tariff. This fact is significant when it is remembered that the Walker tariff had reduced duties to an average of 22.45 per centum on manufactured articles in opposition to the votes of the members representing the States wherein industries were most clamorous for tariff legislation. After twelve years' practical experience under the Walker tariff, which was regarded as a tariff for revenue only, Congress, with the consent of the representatives of the protected interests, further reduced such duties to an average of less than 19 per centum.

The population of the United States in 1845 was about twenty millions; the population in 1860 was thirty-one millions, an increase of over 50 per centum. The imports for the fiscal year ending

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

June 30, 1846, were valued at $121,000,000; in 1860 they were valued at $362,000,000, an increase of 199 per centum. The exports from the United States in 1846 were $113,000,000; while in 1860 they were $400,000,000, an increase of 254 per centum. The total imports and exports in 1846 were $235,000,000; and in 1860 they were $762,000,000, being an increase of 225 per centum. There were less than 5,000 miles of railroad in the country in 1846; while there were 30,626 miles in 1860, an increase of 512 per centum. There were 123,000 manufacturing establishments in the United States in 1850; and 140,433 in 1860, an increase of 17,433 in ten years. There was undoubtedly a large increase of such establishments between 1846 and 1850; but the census was not taken between 1840 and 1850. The capital employed in manufactures in 1850 was $533,000,000; while in 1860 it had increased to $1,000,000,000, an increase of 87 per centum. The value of the product of manufacturing establishments in 1850 was $1,000,000,000; while in 1860 it was $1,855,000,000.

These statistics will serve to establish the fact that the country was fairly prosperous during the fifteen years of low tariff, between 1846 and 1861.

President Harrison, in his recent message to Congress, referred to the remarkable growth of the country between 1860 and 1890, and claimed that the protective system which prevailed during that time was "a mighty instrument for the development of our national wealth." Among other evidences of the development of our national wealth which he attributed to protection, he instanced the increased mileage of our railroads during these thirty years, which was 448 per centum. But during the fifteen years of low tariff between 1846 and 1861 the increase of such mileage was 512 per centum. Those who favor a low tariff do not claim that all the prosperity of the country between 1846 and 1861 was due to our revenue laws. All they claim is that low tariffs are not incompatible with a high state of national and individual prosperity, or with the greatest development possible of national resources.

In December, 1845, Robert J. Walker, the Secretary of the Treasury, transmitted his report on the state of the finances to Congress. After the formal parts of his report had been submitted, he proceeded to consider the subject of the tariff. The following extract from his report is of great interest at this time,

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

when the next Congress, soon to assemble, must pass upon the same subject. Mr. Walker said:

"In suggesting improvements in the revenue laws, the following principles have been adopted:

"1st. That no more money should be collected than is necessary for the wants of the government, economically administered.

"2d. That no duty be imposed on any article above the lowest rate which will yield the largest amount of revenue.

"3d. That, below such rate, discrimination may be made, descending in the scale of duties; or, for imperative reasons, the article may be placed in the list of those free from all duty.

"4th. That the maximum revenue duty should be imposed on luxuries.

"5th. That all minimums, and all specific duties, should be abolished, and ad valorem duties substituted in their place—care being taken to guard against fraudulent invoices and under-valuation, and to assess the duty upon the actual market value.

"6th. That the duty should be so imposed as to operate as equally as possible throughout the Union, discriminating neither for nor against any class or section.

Upon the propositions thus stated, the tariff act of 1846 was framed. The substance of these propositions has been iterated and reiterated in Democratic platforms and conventions from that time to the present. There have, it is true, been material variations and modifications of these propositions, and Democrats prominent in the party have advanced views not in harmony with the propositions of Mr. Walker. They are, however, substantially in accord with the declaration of principles adopted by the Democratic convention at Chicago in June, 1892, and upon which platform the Democratic party has again come into power in the government. Therefore, in revising the present tariff, wise statesmanship and strict adherence to party pledges both alike require that the new tariff, which is to be framed in the near future, should be bottomed, as far as possible, upon the principles so clearly stated by Mr. Walker in 1846.

These propositions required:

1st. That no more money should be collected than is necessary for the wants of the government, and that the government should be economically administered.

2d. That no duty should be imposed above the lowest rate which will yield the largest amount of revenue. This contemplates a tariff for revenue only, and not framed with a view to protecting any class of industries.

3d. That, below the revenue standard, Congress may discrimi-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

nate as to the rate, and may admit certain articles free of all duty.

4th. That the highest duties should be imposed on luxuries. This proposition ought to receive universal approval. In party platforms, the claim is generally made that duties should be so imposed, but in practice, especially as illustrated in the McKinley act, the rule is generally the reverse, the highest duties being placed upon the necessaries of life, and the lowest upon luxuries.

5th. That minimums should be abolished. Such rates have already been dispensed with.

The sixth proposition is one which ought to receive universal approval, namely, that the duties should be so imposed as to operate as equally as possible in all parts of the country.

But the most important of all the propositions laid down by Mr. Walker is that "all specific duties should be abolished and ad valorem duties substituted in their place." This rule was adhered to in the Walker tariff, which does not contain one item which imposed a specific duty, or a duty levied upon the pound or quantity, but the duty was always imposed upon the article according to its value. This is the distinctive feature of the Walker tariff, as compared with all other tariff laws passed in this country.

In view of the early revision of the tariff laws of this country, special consideration should be given to the fifth proposition laid down by Mr. Walker, namely, that all specific duties should be abolished and ad valorem duties substituted in their place.

Mr. Walker, in his report to Congress in 1845, demonstrated clearly that the operation of specific duties discriminates against the poor and in favor of the rich. He said that, if direct taxes were made specific, they would be intolerable. "Thus," said he, "if an annual tax of thirty dollars was assessed on all houses, without respect to their actual value, making the owner of the humble tenement or cabin pay a tax of thirty dollars, and the owner of a costly mansion a tax of but thirty dollars on their respective houses, it would differ only in degree, but not in principle, from the same unvarying specific duty on cheap as on fine articles." He held that, if any discrimination should be made, it should be the reverse of the specific duty. He further said: "The tax upon the actual value is the most equal, and can only be accomplished by ad valorem duties."

The truth of these statements is clearly demonstrated by

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

reference to some of the compound ad valorem and specific duties contained in the McKinley act.

Under the provisions of paragraph 392 of the McKinley act, on shawls made wholly or in part of wool, worsted, etc., valued at more than thirty and not more than forty cents per pound, the duty shall be 38½ cents a pound and 40 per centum ad valorem. This rate does not suggest anything unusual as compared with other rates in that act; but when, by the actual importations of such shawls for the year 1892, the equivalent ad valorem rate was ascertained, it was found that they were taxed 138.63 per centum upon their value.

Turning to paragraph 335, we find that champagne and all other sparkling wines, in bottles containing more than one pint and not more than one quart, are taxed at $8 per dozen. This seems high enough as a specific rate, when the value is not taken into consideration; but, when applied to the actual importations of champagne for the year ending June 30, 1892, it appears that the equivalent ad valorem rate was only 57.29 per centum. Thus, by the device of specific duties, as embraced in the McKinley act, champagne, the greatest of luxuries, pays less than half the rate, according to its value, which is imposed upon the cheap woollen shawls which the poor women of the country must wear to protect them from the chilling blasts of winter.

Woollen and worsted cloths valued at not more than thirty cents per pound, these being the cheapest made, are taxed thirty-three cents per pound, and 40 per centum ad valorem, by the McKinley act. The equivalent ad valorem rate applied to the actual importations of this class of goods for the last year was 162.04 per centum; and the average ad valorem rate of duty upon all manufactures of wool for that year was 95.81 per centum; while the average ad valorem rate of duty upon importations of wines of all kinds for the same year was 54.73 per centum. No such rates as these could ever have been passed in a tariff bill which provided upon its face for ad valorem rates. They are only possible by a combination of ad valorem and specific duties, or by specific duties alone. The actual amount of the tax, as compared with the value of the article upon which it is placed, is concealed. The McKinley act is a combination of such cunningly devised rates. To construct a bill of that kind, requires extraordinary skill and utter disregard of all principles of justice and even of common

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

honesty. The McKinley act contains 32,000 words; the Walker act contained less than 5,000 words. The injustice and inequalities of the McKinley act are apparent at a glance, when the rates are applied to actual importations. Take, for instance, the metal schedule. The rates in this schedule, when reduced to an ad valorem basis, vary from 2.33 to 97 per centum ad valorem; the average in the whole schedule amounting to 55.40 per centum ad valorem.

I will not say that the higher rates were placed upon articles manufactured by individuals who contributed most liberally to Republican campaign funds; but I will say that it would be the easiest thing in the world to so place such rates, and it would be ungrateful on the part of those who received special benefits by the higher protection upon the articles which they manufacture, if they should withhold liberal contributions to the political party that gave them such substantial advantages over their rivals in business.

The immorality of protective tariffs is strongly illustrated by the fact that the persons engaged in certain lines of business are induced, when approaching the ballot box, to vote for the candidates of the party which proposes to secure to them the highest prices for the goods which they manufacture and have to sell. Thus, patriotism and the general welfare are lost sight of in selfishness and the desire for individual gain. How much better is the manufacturer who votes millions into his pocket than the poor unfortunate individual who sells his vote for five dollars, or a less amount, when prompted by the cravings of hunger, or the desire to furnish a moiety of bread for his starving children.

It would prolong this article far beyond the limits which have been prescribed for it, if I should undertake to point out in detail the provisions of a bill for the general revision of the tariff. Such details can only be agreed upon by those upon whom the Constitution has imposed the duty of originating and passing bills for raising revenue. Suffice it to say, however, that the principles which governed in the construction of the Walker tariff of 1846 furnish the basis upon which the tariff may now be revised. A measure based upon such principles has already stood the test of time. The principles upon which it is founded are those which have received the sanction of the Democratic party in the past; and, if adhered to in the future, will make the pathway to tariff revision easy and the remedy for existing evils complete.

WILLIAM M. SPRINGER.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

RECOLLECTIONS OF THE PANAMA CANAL CONGRESS.

BY REAR-ADMIRAL DANIEL AMMEN, U. S. N.

ON THE 15th of May next fourteen years will have passed since the convening of the Paris Canal Congress which was invoked, as I purpose showing, to indorse the Panama Canal Company. In order to comprehend the inception of this Congress, which was assembled on M. de Lesseps's invitation, some facts in advance will be brought to view.

The Geographical Society of Paris had an attachment, or "annex," as appears in the articles of agreement, which I quote from THE REVIEW of February, 1880, page 144:

"Articles of Agreement of the International Society for cutting an interoceanic canal through the Isthmus of Darien, August 19, 1878.

"ARTICLE I. A mutual society is hereby formed by the subscribers, with the following objects: 1. To cause to be made by chosen engineers the general outline and estimates for an interoceanic canal, without locks or tunnels, across the Isthmus of Darien, following first and foremost the track indicated by M. Gogorza.

"ARTICLE VIII. Of the six remaining beneficiary shares two are to be at the disposal of General Turr, and of the four others, two shall be allotted to M. Wyse, who will conduct the expedition, and two others to be reserved for a purpose known to the persons interested."

The subscribers to the International Civil Society of the Interoceanic Canal met on June 9, 1879, and the President spoke as follows: "Whoever then builds the canal, our Society will have given the initiative to the work. We hoped that it would push the execution of the work under the direction of the illustrious founder of the Suez Canal, but M. de Lesseps, who for four years has assisted us with his advice, has now decided to prosecute in person the realization of this immense enterprise, and desires that our Society should concede to him its interest, only preserving in the company he is about to form the interest resulting from our share of the capital."

A member having stated his views in relation to the share of the conceding society, M. de Lesseps said: "Your declarations

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

are loyal, and I take pleasure in telling you so; but I will be obliged to ask you to make me a written proposition." I said to General Turr: "If your Society is in a position to prosecute the work, I do not seek to interfere, and I retire; but in the contrary case, as I shall have all the responsibility, I do not desire partners in what concerns the subscriptions, nor engagements with any one."

"Two days later, in answer to our proposition, M. de Lesseps sent us an opinion drawn up by his counsel, of which the following is an abstract: 'By the terms of this document, M. de Lesseps not only enters into this negotiation with his name and moral influence, but with a positive determined right of intervention. The act of incorporation of the conceding society declares that the presidency shall be offered to him; therefore he might have identified himself with our Civil Society, in which he, as president, would have the casting vote in case of division. His official influence has been, nevertheless, important. Messrs. Wyse and Reclus undertook the exploration by his advice, and the confidence of capitalists was stimulated by the certainty that he would put himself at the head of the enterprise when the moment of execution should arrive. M. de Lesseps summoned the Congress, and brought together the former engineers of Suez, by whom the technical and statistical problems were solved. The estimate of probable revenues, on which will be based the appeal to capital, is the work of the Congress, presided over by M. de Lesseps, and the programme for the execution of the work will result from the labors of the Congress as much as, if not more than, from the investigations of the Civil Society. Finally, the vote of the Congress has conferred on M. de Lesseps a new right, inasmuch as a part of the votes were influenced by the confidence with which he inspired the electors. Supposing that the Society should sell its right, could it do so without remunerating M. de Lesseps and his colleagues? If M. de Lesseps claims nothing, his refusal to claim cannot benefit the Civil Society, and its shareholders should reckon with M. de Lesseps.'"

The proceedings of this association as given above, before and after the convocation of the Paris Canal Congress, can hardly leave a doubt of the *raison d'être,* or what may be called the *specific purpose of that Congress.*

Early in October 1876 M. Drouillet, Civil Engineer and

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Secretary of the French section of the "International Society for the Study of the Exploration of the American Isthmus, with the View of the Construction of an Interoceanic Canal," introduced himself to me in Washington. I was then Chief of the Bureau of Navigation, in the Navy Department. He presented a part of the proceedings of the Commission, and a pamphlet by himself, in which he states, as translated by me:

"The problem of interoceanic navigation is, at present, incapable of solution on account of the insufficiency of geographical data, and of the flagrant contradictions which exist in these data, an insufficiency and contradictions which do not permit the engineer to study profoundly a definite project."

On the strength of these assertions, and with the seeming approval of the Geographical Society of Paris, an appeal is made "to the learned societies of the world, and to all the powers interested to lend their aid to a general and serious exploration of the Isthmus."

In view of the series of elaborate explorations and reconnoisances made by the United States Government, reported upon by the commission appointed by the President, and accepted as satisfactory, it seemed to me a duty to present, through the Geographical Society of New York, what had been accomplished and officially pronounced upon. This was done by letter on October 21. I then had occasion to refer to the fifteen projects or lines presented by M. Drouillet, among which he did not describe the instrumental location of the Nicaragua Canal route with sufficient exactness to assign it to any one of his fifteen projects, although on the preceding 7th of February the Commission appointed by the President had made its final report, which had a world-wide publicity, and from which I quote a paragraph: "That the Nicaragua Canal route possesses both for the construction and maintenance of a canal, greater advantages, and offers fewer difficulties from engineering, commercial and economic points of view, than any one of the other routes shown to be practicable by surveys sufficiently in detail to enable a judgment to be formed of their relative merits, as will be briefly presented in the appended memorandum."

In citing his authorities M. Drouillet makes mention of this report, and, notwithstanding, gave the height of Lake Nicaragua thirteen and one-half feet greater than its mean height above the

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sea, given by our levels. From this I inferred that in the matter of the Isthmian surveys, he had not been able to separate "the wheat from the chaff," and, in consequence, entertained the doubts expressed in his pamphlet.

An expedition was sent in 1877 by the French association above named to the region of the Gulf of San Miguel, on the Pacific coast, to make explorations in the direction of Cape Tiburon, on the Atlantic coast, and was supplemented by another one the year following. On both occasions Lieut. Wyse, who had charge of the operations, visited Bogota, to obtain a concession.

Neither of these surveying parties just referred to ever reached the Atlantic coast, but "plans" were drawn for a sea-level canal, involving a tunnel of indefinite length. These plans, however, were not presented for the consideration of the Paris Canal Congress, but, instead, a "plan," drawn by Lieuts. Wyse and Reclus, for a sea-level canal, *actually predicated on a dozen cross-sections of levels on the Panama Railroad,* and, of course, the profile of the railroad, which was obtainable from the railroad company. This is an indisputable fact, the gravity of which the public may now see. It is strange, almost beyond conception, that M. de Lesseps should have given these "plans" his unqualified admiration in the Paris Congress, when the consequences were momentous.

The concession of the Panama Railroad estopped any concession by the Colombian Government for a transit west of the Bay of San Miguel on the Pacific, and Cape Tiburon on the Atlantic coast. The fact was established beyond peradventure, through our government surveys prior to those made by the French, that any practicable route in that region, whether with or without lockage, did not exist. It was very soon recognized by Lieut. Wyse that the vicinity of the Panama Railroad only afforded possibilities for a sea-level canal, the demand or requirement embodied in the articles of the Association given, in part, in this paper.

An instrumental examination was made of the Panama route in 1872, at the request of the American Commission for the examination of the Isthmian projects, in order to ascertain the relative practicability of the Panama and the Nicaragua routes. The reports accompanying the survey were published soon after it was completed, but the maps, plans, and profiles remained unpublished, and the sheets were under my charge, as Chief of Bureau

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of Navigation. Returning homeward, after his second expedition, Lieut. Wyse paid me a visit in Washington, and at his request these sheets were shown him. I subsequently learned that he endeavored to obtain tracings of them through my subordinates. He did not mention to me the fact that he wished them, and from his conversation I inferred that he was satisfied with his surveys from the Bay of San Miguel to the Atlantic coast. He paid another visit to Washington in February 1879, when at his request I introduced him to President Hayes. His object was to express the wish of M. de Lesseps that our Government should be represented at the Paris Canal Congress which was to convene the following May. Some time after, and when the President had determined to send representatives, I saw Senator Anthony, Chairman of the Senate Committee on Printing, and suggested having the maps, plans, and profiles of the Panama and Atrato-Napipi surveys published, and they were presented in due form to the Paris Canal Congress, with all of our other Government surveys, comprising the whole Isthmian region.

Early in April the President informed me that he desired me to go to the Congress. I suggested that I was not a civil engineer, that I had been one of a commission that had expressed an opinion in relation to all of the trans-Isthmian routes; that my private affairs, although not large, would suffer through my absence, and to tell the whole truth, I did not wish to go. He replied that he regarded my going as important to our public interests. I then said that if that was his opinion I certainly would go, but that I would ask leave to write what I proposed saying to the Congress, when I formally presented our Government surveys, and expressed the hope that both he and the Secretary of State would give this paper a careful reading, so that I would have the assurance that I would utter nothing not in accord with their ideas. This was agreed to, and carried into effect.

From certain indications I had a suspicion, which I regretted to find afterwards was entirely warranted, that the Congress was called *not to discuss, but to assure and confirm what had been prearranged.*

On May 17, the third day after the convening of the Congress, the maps and plans had arrived, and I made a formal presentation of them. In my paper I stated that a Government

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Commission had been appointed by President Grant on the 13th of March, 1872, whose duties were "to examine and consider all surveys, plans, proposals, or suggestions of routes of communication by canal or water, communications between the Atlantic and Pacific oceans, across, over, or near the Isthmus, connecting North and South America, which have already been submitted, or which may hereafter be submitted, to the President of the United States, during the pendency of this appointment, or which may be referred to them by the President, and to report in writing their conclusion and the result of such examination to the President, with their opinion as to the possible cost and practicability of each route or plan, and such other matter in connection therewith as they may think proper and pertinent."

A final report was made by this Commission on the 7th of February, 1876. On the same day Mr. Menocal presented technically the Nicaragua Canal route, and explained his methods of overcoming difficulties in the execution of the work, in the improvement of Greytown harbor, and in making the dams on the San Juan River. The leading engineers of Paris were much gratified at his presentations of the important details.

Lieut. Wyse then placed on the stand for explanation his suggestion for a canal in the vicinity of the line of the Panama Railroad. I was not surprised at this change of base, from the Tuyra-Tupisa route, having read his last report, which had been given me two days before.

On the 19th, Sir John Hawkshaw, one of the ablest hydraulic engineers in Great Britain, arrived. The afternoon was taken up by alternate explanations of Lieuts. Wyse and Reclus, of their development of a canal along the general line of the Panama Railroad, on the ocean level, with and without a tunnel, and at the same time keeping up a running fire of objections to the Nicaragua Canal route. From the fact that Lieut. Wyse had abandoned the Tuyra-Tupisa route, and taken up the line of the Panama Railroad the cause of his anxiety when in Washington to obtain our surveys of the Panama route became apparent.

On the 20th Mr. Menocal explained the surveys and plans of the Panama route made by our Government, much to the satisfaction of Sir John Hawkshaw; no doubt less so to M. de Lesseps. He exposed the hopelessness of an attempt to make a sea-level canal, pointing out that there would be a cataract of the

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Chagres River at Matachin of forty-two feet, which in periods of floods would be seventy-eight feet high, of a body of water thirty-six feet deep, with a width of fifteen hundred feet. The surprise and sorrow of those who had made "plans" for a sea-level canal can hardly be conceived. The fact stared them in the face that such plans were impracticable. There was, however, after a day or so, a presentation of "plans and estimates of cost of execution," quite independent of a sufficient knowledge of the topography upon which they could be properly based.

The next day Sir John gave his views on the construction of the Panama Canal as follows: "With regard to the question whether the canal should be constructed with or without locks, the following points occur to me: If the canal is to be without locks its normal surface level would be that of the sea, and its bottom level, say, eight metres lower. This being the case, the canal would receive and must provide for the whole drainage of the district traversed. Therefore it would be necessary to ascertain the volume of water that would drain into the canal before it would be possible even to determine the sectional area of the canal. If the canal have a still less surface fall than the river, as it would have, it must have a larger sectional area to discharge the same volume of water. The average section of the river in a flood at Mamei was ascertained by Mr. Reclus to be 1,310 square metres. This would require the canal, if it were eight metres deep, to be 160 metres wide.

"The waters of the Chagres would have a tendency to flow towards the Pacific, that is, through the tunnel, as the distance is less and the fall greater than to the Atlantic. It seems to me that the dimensions of the tunnel, if it has to serve for both the river and the canal, would be too small. Mr. Menocal's estimate of the volume of the Chagres in time of flood would much more than fill the tunnel; and in any case the whole section of the tunnel is only half that of the river in time of flood as given by Mr. Reclus. During the construction of a canal at the sea level, difficulties would arise in providing for drainage, which would affect both time of execution and cost to an extent that could hardly be ascertained in advance. From such considerations as the foregoing, it should be concluded that the canal should be constructed so as to retain the rivers for natural drainage; then recourse will have to be had to locks. In that event there

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

can be no difficulty, in my opinion, in carrying on the traffic with locks properly constructed, provided there is an ample water supply, which would be a *sine qua non.*"

In a private conversation with me, Sir John said that were a sea-level canal actually made it would be quite impossible to maintain it. It would at once be filled up by trees, bowlders, and silt brought down by the Chagres and other large streams in time of floods, and that having been in Central America "he knew how those showers behave."

On the 28th I was informed that the ablest engineers were very generally in favor of the Nicaragua route, and that nearly, if not all, of the other delegates were in favor of the Panama route. It was apparent from the first that there were two parties of "speculators" in the field, the one represented by M. Blanchet, who had an unconfirmed grant from the Nicaraguan Government, and Lieut. Wyse, who had a grant from the Colombian Government, embracing, with a reservation, the right to construct a ship canal over any part of her territory, the reservation applying to the already conceded monopoly of the Panama Railroad Company over the Isthmus proper. Lieut. Wyse had the powerful support of M. de Lesseps, and could have any desired majority on a vote as to the respective merits of the Nicaragua and Panama canal routes. The advocates of the Nicaragua route were disposed to regard Mr. Menocal and myself as their partisans, which we persistently declined to be, recognizing the fact that the mere preference of opinion in relation to the superiority of the Nicaragua route did not make it a duty to become advocates, except by inference, and through the presentation of facts. The absence of exact information, and perhaps the prejudices of the engineers in the beginning of the discussion, made them at least the tacit supporters of M. de Lesseps as to a sea-level canal. It was apparent, however, after the routes were discussed, that the ablest of them favored the Nicaragua route, and until the vote was taken this tendency gave M. de Lesseps a great deal of concern; he held a caucus late at night and told his adherents that all they had to do was to vote for a sea-level canal; *that it was his affair to make it.* I was told of this immediately after the adjournment, and it seemed to me so droll that an able diplomat should plan and insist upon his ruin, and that of his adherents, that I laughed outright. Had I, however, then supposed that it

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

would lead to the ruin of half a million persons I would not have considered it a laughing matter.

It was said that Mr. Menocal and myself had suffered a defeat in the decision of the Congress, which, although unhappily ruinous to those interested, was quite in accord with our preference. Had M. de Lesseps favored the Nicaragua route, the unconfirmed concession of Blanchet, which was as liberal as could have been desired, would doubtless have been confirmed, and a French canal across Nicaragua would probably within five years have been made more remunerative than the Suez Canal, which would have gladdened the hearts of the stockholders. Of course, every well-informed American knows that it is a matter of vast importance that it should be an American and not a European canal, which would control our coasting trade, and cut our military lines.

On the 29th a vote was taken on a resolution which had been drawn to conform to the wishes of M. de Lesseps, which were expressed as follows : " Le Congrès estime que le percement d'un canal inter-océanique à niveau constant, si désirable dans l'intérêt du commerce et de la navigation, est possible ; et que ce canal maritime, pour répondre aux facilités indispensables d'accès et d'utilisation que doit offrir avant tout un passage de ce genre, devra être dirigé du golfe de Limon à baie de Panama."

The official vote as given was: abstentions, 12 ; against the resolution, 8 ; in favor of it, 78. The most significant figure is omitted in the proceedings ; 38 were absent, and among them the ablest of the Society of Civil Engineers at Paris, and others of note. I abstained from voting on the ground that "only able engineers can form an opinion, after a careful study, of what is actually possible, and what is relatively economical in the construction of a ship canal." In relation to the vote on the resolution, a pamphlet published in Paris soon after, entitled "Panama, 400,000,000 francs a l'eau," states :

"Let it be remarked that one-half of the Congress were French ; that they had been chosen by the organizers of that assembly ; thirty-four members belonged to the Geographical or Commercial Geographical Society of Paris. What was their competency to decide between a canal with locks or on a sea-level ? Fourteen other members were engineers or assistants of some sort on the Suez Canal. What was their impartiality between M. de Lesseps and others ? And, among others, if one takes count of personal

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

friendships and the prestige exercised by a great name, how many more will remain ?"

Notwithstanding the large vote accorded M. de Lesseps, he got no substantial support in furtherance of the construction of his sea-level canal. On the 20th of June, the Society of Civil Engineers of Paris discussed the subject of Isthmian canals. M. Cotard and M. Lavalley, who had been employed on the Suez Canal, pointed out the advantages of the Nicaragua over the Panama Canal route. It was stated at the time that M. de Lesseps appeared unexpectedly, and appealed to the Society to discontinue the discussion, as it would be greatly to the injury of French interests. His power at that time is shown in the fact that this unreasonable request was complied with. I subsequently received a letter from an eminent engineer of that Society, who stated that I had little conception what professional injury one would suffer by incurring the displeasure of M. de Lesseps.

In August, books for subscriptions to the stock were opened with great *éclat* in Europe and in the United States. Soon after they were closed it was announced that, "as the amount subscribed was insufficient the subscribers were at liberty to withdraw the money paid in." The *Canal Bulletin* did not give the number of shares of stock subscribed, but an estimate published at the time stated it roughly at two per cent. M. de Lesseps, however, was by no means at his wits' end. He determined to go to Panama "to see for himself." He would then be able to inform the public just what the canal would cost, and, to insure this, took several engineers with him as well as two contractors, Couvreux and Hersenlt, who had done work on the Suez Canal. Soon after his arrival at Panama he expressed his great satisfaction with the physical conditions, although a disastrous flood of the Chagres River was just subsiding. He also reported that the climate was delightful and healthful, and, perhaps to accentuate this idea, he took one of his daughters with him. On the way to the United States he found ample time to revise the estimates of his engineers, which amounted to seven or eight hundred million francs, which was a large reduction of the estimate given in the Paris Canal Congress. He stated that he had a substantial agreement with Couvreux and Hersenlt to execute the work for about five hundred and twelve millions of francs.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The success of the Suez Canal and the fortunes made by the investors in that stock quite crazed the credulous *rentiérs*, when they read the illusory personal presentations of M. de Lesseps, and saw his flaming advertisements everywhere. There was not a newspaper at that time, and for years thereafter, that did not give rosy accounts of the sea-level canal. Notwithstanding the statement of a substantial agreement as to cost of construction with Couvreux and Hersenlt, they appear thereafter only in the rôle of contractors, with many others, to do certain parts of the work at a given compensation per cubic metre.

In a narrow valley, where the canal is located from Matachin to the sea, is the Chagres River, and beyond, looking towards Panama, are abrupt hills over which the railroad passes at an elevation of 296 feet, with a summit cut of thirty feet. The proposed canal excavation is of much greater depth, this increase being necessary to avoid short curves. It was a hopeless task at best, and after several years strife against nature, we find M. de Lesseps so subdued that his "plans" were changed for a summit eleven metres higher than Menocal's project on the same locality, for a lockage of 124 feet above sea, which had a natural, but at times of drought, as was afterwards known, an insufficient supply from the waters of the upper Chagres, planned to be impounded at considerable cost. Compared with the grand resolution for a sea-level canal, the *sine quâ non* of Lesseps, a putative engineer, aud a diplomat, there is something painfully grotesque in his later "plan" of providing means, as occasions would require, for pumping a water supply thirty-four feet to the summit—this in order to operate a ship canal to meet the requirements of the traffic of the world, as pointedly expressed in his resolution, adopted by his Congress!

In THE NORTH AMERICAN REVIEW for January 1880 M. de Lesseps stated: "In the examination of different projects in the United States, the only plan thought of has been to make use of inland waters for constructing a maritime canal, and they have entirely neglected to study the methods by which they would secure a constant level of sea-water for the purposes of navigation in a channel cut from one ocean to the other."

Had M. de Lesseps examined the report of the Panama Canal survey, presented to the Paris Canal Congress, he would have

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

found the following in the instructions to Commander Lull from the Navy Department, December 29, 1872:

1. In relation to water supply, and the points whence it should be drawn for an interoceanic canal, if constructed on the Isthmus of Panama.
2. The difficulties that may exist from floods.
3. Actual locations of the most practicable line or lines, with location of locks, if the route upon examination should render this advisable.
4. Observation as to whatever in the way of material, or other conditions, which would look to the general question of construction, whether of advantage or disadvantage.

It will be seen from Lull's instructions in full that the "exclusively American Commission," of whom M. de Lesseps complains, asked for and obtained a survey of the Panama route *with reference to a sea-level canal,* and if this should be found impracticable with whatever lockage proved most advantageous. Yet on this very location M. de Lesseps supported enthusiastically, in the Paris Canal Congress, a "plan" for a sea-level canal based solely on a dozen cross-sections of the railroad and its profile.

On page 50, of H. R. Doc. 16, Forty-sixth Congress, third Session, will be found the testimony of M. de Lesseps before a select committee on the Interoceanic canal question. He stated: "If it were determined to build a lock canal, and if there could not be a canal between the two oceans except a lock canal, then there was no doubt that the Nicaragua route was the best route."

In reply to Mr. Hutchins, who asked how many vessels a day could pass through the Nicaragua canal, supposing it to have seventeen locks, M. de Lesseps stated that each lockage would require two hours, even if everything went well. Mr. Hutchins asked whether more than one steamer could pass through a lock at one time, to which M. de Lesseps replied in the negative. Mr. Hutchin said, according to that, not more than ten or twelve steamers a day could pass through the Nicaragua canal. M. de Lesseps assented; he would say fifteen as the greatest number that could pass the locks in one day. At the Paris Canal Congress, Sir John Hawkshaw said that he thought fifteen minutes ample time to pass a single large vessel through a lift lock.

On page 653 of the proceedings at the final sitting of the Congress, M. de Lesseps said: "Au moment de nous séparer, je dois vous avouer que je suis passé par bien des perplexités pendent le temps qu'a duré ce Congrès. Je ne pensais pas, il y a quinze jours, que je serais obligé de me mettre à la tête d'une en-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

terprise nouvelle. Mes meillieurs amis ont voulu m'en dissuader, me disant qu'après Suez je devais me reposer. Eh bien ! si l'on demande à un général qui à gagné une première bataille, s'il veut gagner une seconde, il ne peut pas refuser."

Had Mehemet Ali been a gifted engineer, instead of being gifted with duplicity in an extraordinary degree, when he had so apt and youthful a pupil as M. de Lesseps half a century later, perhaps half a million of persons who put their fortunes in the stock of the Panama sea-level canal would not have lost their last sous; and perhaps Dauzats, Bionne, Reclus, and a host of the other personal friends of *le grand Francais*, would not have fallen victims to the pestiferous climate of Panama, and tens of thousands of other persons would not have died there in a vain strife against the forces of nature.

Some years ago, a friend living in Paris wrote me of the popular idea that there were only two great men in France who were truly, sublimely great. One was General Boulanger, and the other M. de Lesseps. Subsequent years dispelled the illusion in relation to the former, and left not even a shadow of greatness.

In relation to M. de Lesseps, this pitiful recital of human frailty—certainly without criminal intent to ruin himself, and all of those nearest and dearest to him, as well as half a million of *rentiers*, who had a blind faith in him, and some tens of thousands of men who, assured by an authority they regarded omniscient, went to the Isthmus and died there—admonishes us to pause for reflection. It is not given to man to condemn, save in a judicial way, nor to pronounce culpability. An all-wise Creator can measure human actions far beyond the ken of man, and far beyond the decrees that belong to mundane existence.

It is an obligation that humanity should sympathize with those who suffer, and bow with reverence and humility to a Divine decree—not one that looks to other than benevolent consideration.—VENGEANCE IS MINE, SAITH THE LORD.

DANIEL AMMEN.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CHANGES IN THE CHURCH OF ENGLAND.

BY THE VERY REV. THE DEAN OF ST. PAUL'S.

THE last half century has seen changes as great in the Church as in the State of England, and it is only those who have seen them, and lived in the midst of them, who can realize how great these changes have been. It is to the Oxford movement that most of them are due. At the commencement of that period the most earnest and influential school of religious thought in the church was the Evangelical, of which the Rev. Chas. Simeon was the leader. The Oxford movement was in its infancy. The "Tracts for the Times," commenced ten years earlier, were beginning to attract attention as a possibly serious force in the future. Consequently against them men of very different schools of thought banded themselves together, though they could agree about little else. A good story that illustrates this is told of what happened at a dinner given by a leading Evangelical clergyman. The dinner was in May, when the societies favored by the Evangelical party hold their meetings in London. A fox-hunting parson was amongst the guests; the lady sitting next to him inquired whether he had been to any of these meetings, upon which, to the surprise of the company, the clergyman shouted out: "Meetings in May, Madam? Meetings in May? Hounds meet in May? Never heard of such a thing."

At that time the influence of the State in church matters was excessive. The power of governmental control which had hindered the Church from sending bishops to America a century before was felt to be paramount. Until the year 1819, no church could be built in England without an Act of Parliament authorizing its erection. The difficulty and expense of obtaining such an Act were great, and consequently at a time when population was

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

increasing at a rate never before known, not more than one or two churches were built annually, and good sort of ignorant Church people erected dissenting chapels to preserve the people from lapsing into heathenism. As the State then hindered Church expansion on the one side, so it thought to protect Church interests on the other by degrading the sacrament of Holy Communion into a test for civil office. The Test and Corporation Act required every officer in the army or navy, every candidate for the office of Alderman or Mayor of a corporate town, and for many other positions, to bring a certificate of having received the Holy Communion at church before he could be admitted to office; whilst the Roman Catholics were excluded from public positions of all kinds by the oath which the law required them to take. It would be difficult to invent two more effective hindrances to the growth of the Church's spiritual influence than those just named.

Between 1819 and 1840 these State arrangements for the Church had been happily swept away and a strong antagonism to her claims and position had been aroused. A popular Prime Minister had bidden the Bishops set their house in order, leaving them to complete the sentence. The Bishops in times of political excitement were mobbed and insulted on the streets. As an example of what was done it may be mentioned that whilst the Bishop of London was laying the first stone of a church in a poor neglected part of his diocese, a bull was turned loose amongst the people gathered to see the ceremony. Ten Irish sees were suppressed, and each year was expected to see more far reaching changes.

When we turn from the political aspect of the Church's affairs to the condition of her sacred buildings and services and her hold upon the spiritual thought of the country we find very much what might be expected. Her temporalities had been rigorously defended in the past, but there had been no thought of making them effective for the spiritual edification of the people. Pluralities were almost universal. Benefices were looked upon as estates to be held by men in Holy Orders, rather than as cures of souls. So lately as 1820 one man held the Deanery of St. Paul's with the Bishopric of Lincoln, both being well endowed; and he provided for one of his sons by giving him a canonry at Lincoln and another at Winchester and several benefices in

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

different parts of the country, and for another son in a somewhat similar manner. The men who could thus accumulate to themselves spiritual offices, or rather the income of spiritual offices, could not be expected to be very regardful of the spiritual interests of their flocks. Ill-paid curates were placed in charge of the parishes in which the Rector did not reside; and it was a rare thing for a parish, however large or populous, to have more than one clergyman to minister to its wants. The consequence was that only the routine duties required by law were discharged, anything beyond that was considered superfluous. There was no aggressive action on the part of the Church against the unbelief and practical materialism that were growing up on all sides. The sick and the dying were uncared for, the people were unvisited, the children were untaught, the most solemn services of the Church were so negligently performed as to be productive of evil rather than good; whilst the social improvement and well-being of the poorer members of society were unthought of. There were, of course, many exceptions to this state of things. There were earnest, devoted clergymen laboring for the spiritual welfare of their people, who mourned over the miserable condition to which the Church was reduced, and who sacrificed themselves and their fortunes to make full proof of their ministry. Such men were exceptions, but they happily existed. They were looked upon as enthusiasts, and were carefully excluded from the important positions of the Church by those in authority. For the most part they were found in benefices with incomes too small to tempt the cupidity of worldly-minded men.

The condition of the churches was as unattractive as neglect could make them. There was no thought of decoration, no effort to beautify them. They were filled with appropriated pews, the sides of which were sometimes so high as effectively to hinder their occupants being seen by the rest of the congregation. In some country churches the squire's seat was fitted up as a parlor, with a table and chairs and a fireplace, and with curtains to hide the occupants from the view of the rest of the congregation. Nor were the services more attractive. There was no chanting, hymns were unknown, a metrical Psalm was sometimes sung, with the accompaniment of an orchestra that must have been intolerable to musical ears; opportunity being furnished for this outburst of song by the clergyman retreating

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

into the vestry to exchange the surplice in which he had read the prayers for the black gown in which he was to preach. The people rarely joined in the responses, while the Psalms for the day were read alternately by the parson and clerk. Little provision was made for the poor, and dullness was the prevailing feature of the service. There was little to distinguish the church from the meeting-house, except that its services were colder, and its sermons more scholarly and correct, but much less exciting and amusing. In the eastern counties it was no uncommon thing for one clergyman to serve three or even four churches, one hurried service a week being given to each. In Lincolnshire it was very rare to find a clergyman serving only one parish; if not a pluralist, he would give one service, alternately morning and evening, in the church where he was rector, and then provide the same amount of spiritual ministration as curate to some non-resident incumbent in a neighboring parish. Even in such cathedrals as St. Paul's, London, where there was great reason for more being done, there are many who can recollect the verger coming to them and saying he hoped they would not give the minor canon the trouble of celebrating the Holy Communion for their benefit, as he would have to do if they did not withdraw. The week-day services in cathedrals were compulsorily maintained, but the choirs and clergy attended so irregularly and behaved so irreverently as effectually to keep worshippers away. There were few churches in which Holy Communion was celebrated more frequently than once a month.

Under these grave conditions, when the old defences for the Church Establishment had been swept away, and when a government hostile to the Church was in power, schemes of all kinds were suggested for ending or mending the Church. The wildest proposals for altering the Prayer Book were freely canvassed, and the crisis seemed so near at hand that an influential Churchman wrote: "I would have little or no fear if I thought we could stand for ten or fifteen years as we are." But such an anticipation seemed out of the question. As an illustration of the extent to which this feeling pervaded the country, and was seriously contemplated by men in a position to take a fair view of what was likely to happen, I may mention what happened with regard to a valuable estate belonging to the Dean and Chapter of St. Paul's. It had been leased for 300 years to the Corporation of

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

London, and the lease was on the point of expiring. Land that had been open fields when the lease was granted had been covered with valuable buildings. It was discussed in the Corporation solicitor's office what should be done to obtain a renewal of the lease. After discussion it was determined that nothing should be attempted, for it was said: "We shall soon have the cow, why care for the calf;" in other words, the cathedral and all its belongings will soon be confiscated; why trouble about a fragment of its property.

Such was the state of things viewed from the outside. Looked at from within there were defenders unequal to contend against the enemies who surrounded them. Those who had leaned on the arm of the State, and their name was legion, had lost the power on which they had relied for protection. Evangelicals were earnest and zealous, but their theology was too narrow, too much like that of the sects who were assailing the Church, to make it possible for them to rear an effective barrier of defence; and there was a liberal school, of which Dr. Arnold was a leading member, who were prepared to surrender all that was distinctive in the church teaching to unite in one body with the dissenters. All this has to be borne in mind if people would rightly estimate what has been accomplished in the English Church during the last half century. Then it was that a few earnest men keenly felt that the only path of safety and of truth for the Church was boldly to reassert the principles for which her more earnest defenders had contended in days gone by, the principles for which Archbishop Laud had been content to die, and which had marked the writings of great divines in the Elizabethan and Caroline periods. Foremost amongst these there was John Keble, a man of great literary attainments, a double-first class man at Oxford, a tutor of his college, a poet, but shy and retiring, not formed to lead a party, preferring the quiet of a small country curacy to the more prominent life of Oxford with its possibilities of future eminence. To train some future clergymen who might benefit the Church, he took charge of several young Oxford men in the vacations, to whom he acted as tutor in the country, and from whom he would never receive any payment. Amongst their number were Hurrell Froude, Isaac Williams and others. The first of these was destined to play an important part in the few years of life that were allotted him.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

He was impulsive, enthusiastic, somewhat reckless in stating what he held to be true, not averse to controversy, unselfish, indifferent to worldly interests. On him Keble's teaching had the greatest influence; it completely moulded him in the religious principles of his instructor. As a fellow of Oriel College he gradually became intimate with Newman, who had begun life as an evangelical, and had then been attracted by Whateley, afterwards Archbishop of Dublin, and his liberal school. At that period of his life he had so little sympathy with that school of thought in the English Church with which he was afterwards identified that he had secured the election of Dr. Hawkins as Provost of his college by defeating Keble. Through his friendship with Froude he became intimate with Keble after a time, and supplied what was needed to make the enterprise on which he embarked successful, and now these friends, together with some others, resolved to do whatever could be done to persuade churchmen to rest the defence of the Church upon the principles just spoken of. At first Dr. Pusey stood aloof from them, but after a time he took an active and important part in their proceedings.

This great venture was the publication of a series of tracts, well known since as "Tracts for the Times." The first of these, written by Newman, bears date September 7, 1833, and the special principle for which these publications were to contend is thus set forth in that tract which was primarily addressed to the clergy: "There are some who elect their Divine mission on their own unsupported assertion; others who rest it upon their popularity; others on their success; and others who rest it upon their temporal distinctions. This last case has perhaps been too much our own. I fear we have neglected the real ground on which our authority is built—*our apostolical descent.*" To establish this, and what follows upon it, the divine character of the Church, its independence of the State in all that relates to its doctrine and discipline, was the one aim of the Tract writers, as it has been of those who have followed their teachings.

At first this teaching made little way. When the government of the day desired to force the University to receive dissenters, a stand was made against the attempt chiefly by these men, and Denison, afterwards Bishop of Salisbury, accidentally meeting Newman at the time, said to him: "To make a stand against the government

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

by a handful of men here is absurd. What do they care for you? They will only despise you." But they had resolved to go by faith, to do what they believed right regardless of what the result might be, and they counted the cost. They knew that by so doing they forfeited all prospect of fame or success in their profession, and that they must give up all thought of what is most attractive in this life—promotion, wealth, comfort. Slowly they won their way. The example of their holy, self-denying lives had an attraction which enthusiastic and religiously disposed young men could not resist; and seven years later when I entered the University of Oxford nearly the whole of the religious life of the younger members studying there was being influenced by them.

One way in which that life showed that the men who accepted it were in earnest, was that they regarded obedience to all college and university regulations, as not less part of their religious obligations than seeking for the teaching in which they took more interest and pleasure. Instead of college chapel being regarded as an irksome disciplinary regulation, undergraduates attended twice in each day instead of the once that was obligatory, the college fellows and tutors who agreed with the Tract writers setting them the example. The solitary celebration of Holy Communion in college chapel during each term was supplemented by a weekly celebration at St. Mary's (of which church Newman was Vicar) at 7 o'clock, and it is pleasant to recall the appearance of Dr. Pusey and others who were never absent, some of whom had evidently found but scant time to attend to their toilet. Then it was no uncommon thing to find men who took a Sabbatarian view of their religious duties and practically spent the whole day in fulfilling them. Holy Communion at 7, prayers in College Chapel at 8, University sermon at 10, and also at 2, Newman's service at St. Mary's at 4, when most of his Parochial sermons, subsequently published, were preached, and then prayers in College Chapel at 7. Religion became the dominant principle in Oxford. I can truly say that in no other place have I ever seen such attention to its outward requirements; fasts and festivals were strictly observed; theology was studied to such an extent that the writings of the fathers in old editions became difficult to procure, even at greatly increased prices. There was an enthusiasm that seemed to carry everything before it. The sad reflection is that in looking back one has to mourn

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

over so many friends, with whom one was then entirely in accord, who have strayed into other paths, some having deserted to Rome, others having adopted what are euphemistically termed liberal views of religion; all of them having been more or less shaken by the subsequent action of Mr. Newman. At the time I am speaking of, it was known that to sympathize with the views of the Tract writers would be looked upon with the greatest disfavor by the rulers of the University and those outside it. The Provost of Oriel cross-questioned every candidate for a fellowship in his college on the subject, and made it certain that his opposition would be assured against all disciples of this school, whatever their qualifications might be, and he emphasized his opinions by practically dismissing from their tutorships some of the more distinguished writers of the Tracts. The heads of some of the colleges altered the dinner hour on Sundays, so as to make it impossible for the men to attend Newman's service at 4 o'clock; and it was understood that rustication might follow if a man failed to dine in hall on that day. Fanatical clergymen came to preach in their turn before the University and took the opportunity of denouncing the teaching of the Tracts and their writers; one preacher, more zealous than wise, took for his text: "They wax fat; they shine," applying these words to the writers of the hated publications, whilst the thin, ascetic forms of Dr. Pusey and Mr. Newman were seen below the pulpit, to the intense amusement of the congregation.

There was nothing in the ceremonial employed by Mr. Newman and his friends to distinguish it from what was practised elsewhere, except that the services were more reverent. At the early celebrations at St. Mary's an old custom was continued that I have never seen elsewhere. The communicants were ranged round the stalls of the long chancel, and white cloths were spread on the desk for books before them; there they remained, and the celebrant and his assistant went round administering the sacred elements to them.

There were one or two memorable scenes in church. When Newman was preaching his last University sermon, which was on Development, he startled the crowded congregation by saying: "Thus Protestantism has unexpectedly developed into polygamy," referring, no doubt, to the case of Philip, Prince of Hesse, Luther's defender. It seemed as though an electric shock

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

had passed through the church. Not less remarkable was the scene at Littlemore, where he preached his last sermon in the English Church. His subject was the parting of friends, and as in calm, unimpassioned words he poured out eloquent descriptions of such partings there was not a dry eye in the church. Strong men like Dr. Pusey and Jack Maurice sobbed aloud; the church literally rang with the sound of their weeping, and gave such an illustration to the words "he lifted up his voice and wept" as I had never witnessed before. When the sermon was finished, the preacher came down from the pulpit, took off his University hood and threw it over the altar rails, as much as to say, Now my office as a teacher has come to an end.

Another remarkable day at an earlier period was that which succeeded the publication of "Tract 90." The whole University was wild with excitement. Four well-known tutors had signed an appeal to the Vice-Chancellor, asking for its condemnation, and their appeal was posted at the buttery hatch of all the colleges. A crisis was evidently at hand. In a few hours the first edition was exhausted, and men rushed eagerly about seeking to borrow a copy from any friend who had been so fortunate as to secure one. I remember one of my college friends, who was helping Newman, rushing up to me to beg for the sight of a copy, saying, "I hear we are to be burned. I should like to know what for before it happens."

After the events just named, it was felt that the whole aspect of affairs was changed. Men said the Oxford movement is shipwrecked. There was distrust where there had been confidence. A reaction had set in, and no one could tell how far it would go. Some men deserted to Rome; others felt disinclined to trouble themselves further about religion. It was a shock to find that, after all, Newman had doubts about his position, though no hint to that effect had been publicly given in his sermons or elsewhere. The question was asked, Did the religious excitement of the last few years represent real convictions, or was it only a mere academical discussion? After all that Newman had said against Rome, will he become a convert? Earnest, enthusiastic young men who had yielded to the influence of his teaching, felt sick at heart; they did not know what to do. If what they had learned was not true, they felt there was nothing true. It seemed to them for the moment that they had been deceived. Fierce attacks were

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

made on the movement from all sides, and he who had been the leader was like Achilles, sulking in his tent. Those outside his intimate circle of friends could only guess what would happen; whilst his intimates, as we now know from recent publications, could never have had a doubt what the end would be. Still, when the end came, it was a shock to them, as I learned from a friend of his who showed me a letter from him announcing his submission to the Church of Rome, which was the first intimation I had of that event.

When he was gone it was found, after a time, that he had taken with him much fewer people than might have been anticipated. Of all the writers of the "Tracts for the Times," he was the only one who left the communion of the Church of England, and he was the only one of the number who had been educated in Low Church traditions. The shock that had been given was eventually found to have been far less injurious than was at first supposed. It had compelled earnest men to examine how far they were leaning upon principles and how far upon the influence of a teacher whom they reverenced. The former remained steadfast; the latter fell off to the right and to the left. Men like Dr. Pusey came more to the front, and soon obtained the confidence of those who had been influenced by the teachings of the Tracts. After a time a new phase came over the movement. Some enthusiastic men thought that oral teaching ought to be enforced by a corresponding ceremonial. They revived vestures that had long been unused; they adopted a ceremonial beyond that of which churchmen generally could approve. They aroused a fierce antagonism; and every instrument by which their opponents could hope to overwhelm them was unscrupulously set in motion. It would be difficult to defend the consistency of the judgment of the law courts in cases where their aid was sought to suppress the practices objected to. In one point only did these judgments agree, and that was in not favoring innovations. Parliament was besieged with petitions to put down these so called troublers of Israel; a Royal Commission that sat for three and a quarter years was appointed to examine the question and report upon what could be done, and their report was on the popular side. Legislation was attempted and one Act was passed, which was expected to crush the movement. But no weapons that were forged against it prospered. In spite of everything that was done, its influence in

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the country increased ; its opponents after a time practisd many of the observances against which they had at first vigorously protested. Throughout, the disciples of the movement consistently held to the paramount importance of the truth, which they felt had been intrusted to them, and defended the principle for the support of which the writers of the "Tracts for the Times" had commenced their publication. The principle was that the Church was not a branch of the State, but that it was responsible for making its own laws and enforcing its own discipline. Men were found willing to suffer imprisonment and the loss of all things, rather than yield a hair's breadth in a matter which they felt to be vital. They were content to be condemned unheard in a civil court, rather than give their sanction, as they felt it would be, to the right of such courts to interfere in such matters, by pleading before them. Without examining the wisdom, or the want of wisdom, of what they said and of what they did, it must be acknowledged that this result has been attained. The principle for which they contended has been accepted to a great extent by the mass of English people. The Church has obtained a real living influence such as it did not possess ; its claims to a Divine authority have been realized by foes as well as friends ; and if its enemies are more actively hostile, and more determinately set upon its destruction than they were, its friends are infinitely more resolved to do whatever can be done to make its spiritual power and influence more widely felt, and to secure that it should be worthy to become in reality, what it is in name, the Church of the Nation.

ROBERT GREGORY.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CRIMINAL LAW IN FRANCE.

BY MADAME ADAM.

DURING a recent visit to Aix in Provence I found the country in a state of excitement over a case about to be tried at the assizes, members of the most united families being divided into hostile camps: those who thought "Cauvin guilty," and those who thought "Cauvin innocent." To throw light on my faith, I listened, I inquired. Before the verdict was rendered, I formed an opinion of my own from reading the newspapers. I felt that Cauvin was guilty. After the verdict, the accounts of those who witnessed the trial, the absolute lack of any proof of the prisoner's guilt, and the reading of his lawyer's plea, led me to believe Cauvin innocent.

I shall relate the story of the Cauvin case at the close of this sketch, but meanwhile my readers may share my desire to understand the workings of criminal law in France. The idea that an innocent man had been condemned so moved me that I was anxious to know what guarantees my country's justice offered to any poor fellow who might be *accused, arraigned, and convicted,*—the three stages through which a criminal or supposed criminal passes.

Before I made this study of French legal methods I was shocked by what I may call the moral torture inflicted on the accused by the examining magistrate, which stirred me to revolt. I was sincere in thinking of the great degree of inferiority of a poor, ignorant wretch, to whom words are traps, who knows not how or what to answer, who finds himself drawn by the judge into a network of contradictions, who has often almost forgotten what he did on a certain day, at a certain hour, after the lapse of weeks or months, who gets all in a muddle, contradicts himself, and persists in what seems a stupid line of defence, when

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

we compare him with the logical man, the sensible, intelligent judge, eagerly bent on incriminating the culprit, and who is convinced that he has found and cornered him. I felt that verily in this, our free and equal land, there was a flagrant inequality between a country bumpkin cross-examined by the examining magistrate and a professor of rhetoric accused of the same crime.

I do not know how *causes célèbres* are conducted in America, but in France we all lose our heads, discuss the probability of guilt, argue the case one way or the other, discover or deny proofs, and, if we see any possibility of innocence, a mighty current of thought is formed which sways the press and might well influence anybody, however constituted, whether politician or otherwise, but which, incomprehensible as it may seem, has no power over the French magistracy.

What is this magistracy and what does it represent? What sacred power does it exert? What high ideal inspires it? What code of morality guides it? Whom does it feel that it defends?

In America and in England a magistrate recognizes in himself no right to prejudge a case. The accused, until he is found guilty, is innocent in the eyes of an English or American judge, who treats him as such and often helps him to clear himself. In France, on the other hand, the magistrate defends society against crime and strives to wring a confession from the prisoner before he is convicted. The person accused, considered as the one upon whom the burden of suspicion and accusal rests, must furnish proof of his innocence at the outset of proceedings against him, or else he must appear at the assize court, his accusers being the magistrates who have studied his case.

The perfect type of a judge in France, of a magistrate in whatsoever degree he may be invested with the power to interpret and apply the law, is that of a man of high, incorruptible moral worth, filled with profound respect for the judicial power which he wields, and with veneration for the laws.

To a French magistrate the laws seem meant to insure the reign of peace among men—a noble principle—for the realization of which he labors with kindness but at the same time with firmness; for if peace is to reign among men the laws must be obeyed, whether voluntarily or by force. Magistrates obey a higher authority, the living image of the arsenal of the laws, namely, Justice. They serve justice by executing her decrees

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Justice has, for many ages, been represented with a pair of scales in one hand that she may weigh with the utmost precision the rights of all those who approach her sanctuary, and with a sword in the other that force may, if necessary, insure the execution of her decrees. With scales alone justice would be a mere personification of impotency; with the sword without the scales, she would be the personification of brute force. Without justice, without her constitution, without her official and efficacious machinery, laws would be of no avail, since they might be violated with impunity. Justice is, therefore, a necessary institution. In order that she may fulfil her destined end she must be ever ready to be set in motion by those who impersonate her, nay, more, she must never under any pretext refuse her aid.

Article IV. of the French Civil Code declares that "the judge who shall refuse to utter judgment on the plea that the law is silent, absurd or insufficient, may be prosecuted as guilty of refusal to administer justice." A judge, therefore, must enforce the law, even should it seem to him false and unjust—*dura lex, sed lex.* But, you may ask, will not his conscience rebel? No. A judge is a priest of Justice, he cannot dispute her dogma. If the sentence which he pronounces be unjust, his conscience cannot be burdened, for the blame rests with the legislator.

The judge is appointed to judge according to the law, and not to judge the law. D'Argentré has said that a man must be mad to think himself wiser than the law. Can we conceive of a judge free not to enforce the law because he happens to consider *it unjust?* That would be *the source of the gravest abuses.* There would be no more law. It would be replaced by the conscience of the judge. If each judge understood equity after his own fashion there would be almost as many versions of equity as there are judges.

The legislator, therefore, is alone responsible. The mouthpiece of the social interest of the general interests, he enacts laws in view of those interests. As for the judge, he is merely the mouthpiece of private interests; he is charged with but one special duty—to cut short any conflict which may arise between individual interests.

Thus we see that the law is binding on all citizens, but the judge's decision is binding only on those who are concerned in the case. The legislator has the initiative of the laws, the judge

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

has only that of his own decisions! The first has the power to modify the laws which he has made, to any extent, but it is a singular fact, and one which, in my opinion, makes him at once the superior and inferior to the legislator, the judge can never change a sentence which he has once pronounced! It ceases to belong to him from the moment that he utters it. It becomes final, unalterable, so far as he is concerned, and can only be modified by other jurisdictions.

The functions of the legislator and of the judge are, therefore, so wholly unlike, that it was highly imperative that they should be confided to different powers. Montesquieu tells us that "There is no freedom if the power to judge be not separated from legislative power." Every successive constitution in France since 1789 has held this principle sacred. So, too, Article V., of our Civil Code, reads thus: "All judges are forbidden to decide by any standard and universal rule in such cases as may be submitted to them." This requires explanation.

Under the old French monarchy, in old French law, before the Revolution, our famous Parliaments, powerfully and authoritatively, though they more than once resisted the king, constantly strove to encroach upon the privileges of the legislator. Whenever it was possible, they rendered a standard and universal decision, known as a decree (*arrêt*), in such cases as were submitted to them. Not only did these Parliaments judge the case in hand, but they declared that they should always, in future, decide similarly and after the same fashion in all like cases, and they ordered courts under their jurisdiction to do the same. Was this law? They were, however, subject to the pleasure of the king; hence the conflicts with which our history is filled.

Now let us see how justice proceeds from the moment a crime is discovered.

The public prosecutor appointed to check crimes, misdemeanors and offences, seeks out and pursues offenders. Crime is an act punished by law by a penalty either at once afflictive and ignominious, such as death, hard labor, transportation and solitary confinement, or merely ignominious, as banishment and civic degradation. In France all crimes are tried by the assize courts. A special offence, however, such as the famous Boulanger affair, may be referred to the Superior Court (*Haute-Cour*), as may also such crimes as high treason and attempts against the person

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the chief executive power or against the safety of the State.

The public prosecutor, whose appointment is a pledge for the safety of every citizen, is invested with a double power called *actions* or *suits*. The first, known under the name of *criminal action*, protects society whose order the criminal has disturbed; the second, *civil action*, protects the members of that society and defends them against offenders who have injured their interests.

When a crime is committed, the public prosecutor, that is, the attorney-general of a court of appeal or the ordinary attorney of a lower court, repairs to the scene of the crime, to collect all the information he can discover, and on his return directs the examining magistrate to draw up the bill of indictment. The latter, in his turn, searches for the culprit, questions the witnesses, and orders the arrest of all suspicious persons. He is invested with unlimited power in order to ascertain the truth.

When the guilty person, or the one suspected to be such, is caught, and when the judge has heaped upon his head all the proofs which condemn him or seem to condemn him (and this is where my sensibilities are again aroused and I tremble for the innocent man), the poor terrified wretch, seeing the charges which overwhelm him, may feel that he is deserted by all; but at this point the judge closes his examination and hands over the brief to the attorney-general in order that the judicial grand jury (*Chambre des mises en accusation*) may decide upon the further conduct of the case.

In reply to the alarm which I have just expressed, I give a decree of the Court of Appeal, dated June 28, 1839:

"Let us here be permitted to combat a serious and persistent error which is, however, beginning to die out, thanks to the better diffusion of knowledge. We refer to the gratuitous and injurious idea that as the prosecutor always acts for the prosecution, as he sees criminals on every hand, he can only form harsh conclusions if he is to be consistent with the purpose of his appointment, and that, regarding every acquittal as a defeat, he considers every conviction as but one success the more. Those who have a more correct idea of his high functions know that, as the defendant of all interests, it is his duty to protect even those of the person accused when they seem endangered, and to act or decide only to assure the triumph of justice and truth."

With the judicial grand jury the innocent prisoner begins to feel more certain that his innocence will be recognized. The attorney-general may, perhaps, have been influenced by countless incidents or evidences while at the scene of the crime, and the judge may be led astray by some false scent during the examina-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion, but with the grand jury actual facts alone speak and plead with men whom nothing can influence. This grand jury differs from other branches of the Court of Appeal, which are composed of seven counsellors, in that it consists of but five. It decides whether or not the prisoner shall appear before the Assize Court.

Allow me to interrupt this somewhat serious description of justice in France to relate a piquant adventure which befell a friend of mine, M. Henry Machemin, examining magistrate and now assistant judge of the common law court at Nice. One of his villas at Toulon was entered and various valuable articles, including clothes and jewelry, were stolen. There was no evidence that the house had been broken into; the door had simply been opened with the key which was inside. An examination of the premises revealed the fact that the thief, with unparalleled daring and audacity, had contrived to climb upon the roof, and, at the risk of breaking his neck, had entered through an open skylight, had quietly spent the night in the house, and, after eating and drinking such delicacies as he found, dressed himself from head to foot, and left his rags, carefully hung up in the dressing room. To cap the climax he left behind him a card on which was written: "You who are so clever, Judge Machemin, find out who I am if you can."

The judge's rage and desire to discover the rogue may be easily imagined. He left no stone unturned. The whole constabulary took the field. Every known receiver of stolen goods was searched. The police joined in the quest heart and soul, but for a whole year no clue was discovered. Meanwhile Judge Machemin unravelled the most intricate cases, ferretted out the most undiscoverable criminals and received the reward of his merits, being made chief judge of the civil court at Nice.

One day while he was on the bench a well-dressed fellow was brought before him, charged with theft.

"Excuse me," said the judge, "but would you hand me your hat?"

"Highly flattered," said the prisoner, "that you should wish the address of my hatter."

"I should also like that of your tailor; please hand me your overcoat."

"With pleasure; will you have my shirt and trousers too?"

"That is not necessary," replied the judge. "I know where

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

they come from, as well as your shoes and probably your stockings. I am Judge Machemin from whom you stole them."

The man never flinched. "Well, sir," he said, "I must admit that your clothes were of excellent make. They have done me good service, but your shoes were only tolerable, they wore out in six months."

The judge could not help laughing.

"No offence," said the thief, who saw that his victim was not too irascible; "I confess that I took very few carriages and walked a great deal in them."

"Well, I have found you out at last," said the judge, "and you shall pay for your insolence, as well as for the many crimes of which you are accused."

"You did not find me out, sir; I must insist upon that. Chance delivered me into your hands, that is all. It was inevitable, since I allowed myself to be caught; but if I had known that you were to judge me I should have chosen a different court. You know that I never steal for the mere sake of stealing; I steal when my clothes and my resources require renewing; I am a philosopher."

As told by the Judge, this story is one of the funniest I ever heard.

We have now reached the point where the prisoner is about to appear before the jury. How is a jury made up and in what manner is it recruited? The law reads: "Every Frenchman in the enjoyment of his civil and political rights may be a juror." Now, what are we to understand by civil and political rights? Rights in general are the advantages which the law accords to individuals of one and the same nation. Political rights are those of private individuals in their relations with the State. These rights are more important in that the working of public affairs depends upon the majority. In America, in France, and in Switzerland citizens have the most extensive political rights, since each man may form an integral part of the State and become a legislator. Civil rights are those of individuals to each other.

The jurors are drawn by lot in the country town of each department from lists prepared by justices of the peace. Save in pressing cases, duly established and attested, twelve jurors and two supplementary jurors are forced to obey their summons.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The supplementary jurors do not sit unless some one of the twelve is taken ill or is incapacitated by night sessions in the jury room (*salle des délibérations*). When any malefactor of the vicinity, who is reputed to be dangerous, is to be tried, one whose relatives threaten the jurymen, or whose accomplices are not yet discovered, as, for instance, a Ravachol, we may imagine the excitement that reigns among peaceful citizens and timid peasants whom everything alarms.

The assize court is composed of an assize judge and two assistant judges. The jury are seated in the court room to the right of the judge. They have no special costume, but wear their ordinary dress. Sometimes they appear in blouses. The prisoner faces the jury. They ask no direct questions, but may interrogate the prisoner or witnesses, through the judge, on any point likely to afford them information, and may also demand to see all articles offered in evidence by the public prosecutor to prove the prisoner's guilt. They hear the argument of the public prosecutor, who pleads for the indictment which he has prepared, and then those of the defence, and form a truly enlightened opinion from the depositions of the witnesses on both sides. When the trial is concluded the judge, in the presence of the court, reads to the jury the questions which are submitted to them, and reminds them of the duties which they are to perform. It is usually a question of the honor or dishonor of a family; of life or death for a fellow man. In the centre of the room is a long table with six separate partitions or boxes on each side. At the head of the table is a box for the foreman, containing a wooden urn.

From the moment the jury enter this room they are alone. The foreman puts the questions to them and they discuss them. The jury is usually divided into two almost equal camps. There are the indulgent ones, who answer the most incontrovertible evidence with the everlasting "What does that prove?" and there are those who, even when the crime is but ill-proved, declare that "society must be rid of such people." The foreman finds it hard to seize the opportune moment when the jury are almost agreed in their readiness or reluctance to vote one way or the other. Then he states the question anew. The jurymen seat themselves at the table, each in his box, where he cannot see what his neighbors write. One by one they rise and place

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

their folded ballots in the urn. The form of the ballot is: "Upon my honor and my conscience I declare that," etc.

When it is impossible for them to agree, the judge is called in to assist. My noble old friend, Raoul Duval, ex-judge of the court at Bordeaux, once told me that he was called to the aid of a jury at a time when education was far from universal in France, and was asked how they were to cast their votes, for the foreman had no better idea than the eleven other jurymen, nor had any of them understood the questions which the judge read over to them in the court room, and which it was their duty to answer. Raoul Duval said: "You must each write on your ballot, 'Upon my honor and my conscience, I declare that such an one is or is not guilty.'" All but one wrote literally: "Upon my honor and my conscience, such an one *is or is not* guilty!" He was obliged to explain afresh that a man cannot be at the same time *guilty* and *not guilty*.

Another friend of mine, from lower Brittany, related to me that being empanelled upon a jury, and being aware, owing to circumstances which he could not reveal, of the entire innocence of the prisoner whose fate he and his colleagues were called upon to decide, he strove in vain to persuade them to bring in a verdict of "not gullty," but despaired of ever doing so. Luckily the prisoner's name was Mary. Struck by a sudden inspiration he exclaimed: "A descendant of the Virgin Mary cannot be guilty. Come, what do you say?" All voted for an acquittal!

The verdict rendered, the foreman signs and dates it. The jury then return to the court room. The spectators are ordered to bare their heads. The prisoner, who had been removed, is brought back to hear the sentence. After this final moving formality, the jury have done their work in that particular case. If they bring in an acquittal the case is ended; if they decide that the prisoner is guilty, with or without extenuating circumstances, it is for the judges to impose the penalty provided by law.

The case which led me to all these dissertations on law, justice, and the French mode of procedure came up at the assize court at Aix in Provence. The court house in that interesting and curious old town, where memories of different periods of French history meet us at every turn, is a remarkable structure. To this most imposing building Cauvin was brought after a term of imprisonment on suspicion, his guilt

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

having been proved according to the process which I have already described.

A man above the common, living at home with his wife and her parents, a man of letters, an idealist, giving evening receptions of a literary character, reputed as one of the most honest and the best of men, Cauvin appeared last June before the jury of Aix, accused of strangling an old woman, a rich widow, his accomplice being a sixteen-year-old girl, the servant of the murdered woman.

What was the motive for this crime?

The prosecution showed that the woman was his benefactress, that she had brought him up and had made a will in his favor. Disputes arising between them, Mme. Mouttel was said to have threatened to alter her will in favor of a brother whom she had disinherited for Cauvin. During the cross-examination, the maid, Marie Michel, who had been taken from a foundling hospital, and who was a girl of no moral character, gave three different versions of the murder, although she always declared that Cauvin had strangled Mme. Mouttel and that she had herself held the hands of her mistress. Cauvin absolutely denied the charge and his servant as well as his wife and her parents asserted that he did not leave the house until Mme. Mouttel's maid rang at his door to tell him that her mistress was dead. There was no evidence that Cauvin strangled Mme. Mouttel except the statement of the servant, who contradicted herself three separate times. Cauvin's lawyer was so convinced of his client's innocence that he threw his whole soul into his defence, and when the verdict was rendered sobbed aloud in court.

Popular opinion in and about Aix was divided into two contrary currents; one for and the other against Cauvin. A certain soldier, who left Aix to rejoin his regiment, and who was unable to explain how he passed his time during the night of the murder, was suspected by those who believed Cauvin innocent. Owing to lack of proof, the verdict condemning Cauvin to hard labor for life, and acquitting the girl, Marie Michel, as irresponsible, was set aside.

Our Court of Appeal, on the pretext of some flaw in the form, frequently sets aside a sentence which it considers ill-judged. When the Court of Appeal invalidates a verdict, the case is brought up again before another court, but one of the same

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

order and degree as that which originally tried it. The new court, to which the case is referred, retains entire freedom of action; it may confirm the first verdict or render another. In the latter case, a fresh appeal to the Supreme Court may be made.

If the verdict be again set aside by the Supreme Court, which on this occasion assembles all its branches—the Court of Petitions, Court of Common Law and Criminal Court—the tribunal to which the case is then referred *is to judge* as if it were the Court of Appeal. The law of April 1, 1837, declares that the opinion of the Supreme Court is final and prevails over that of any or all other courts or tribunals.

Cauvin will, therefore, be tried again at the next assizes. The verdict acquitting the girl, Marie Michel, however, cannot be reversed. She will, therefore, re-appear face to face with Cauvin, not as a prisoner, although she confessed that she was accessory to the crime, but merely as a witness.

Will fresh proof be brought forward for or against Cauvin? I do not doubt it, for, as we have seen, French justice controls and revises its own actions and moves without undue haste. If it be stern with the guilty in order to preserve society, it also allows the innocent the power and the means to prove their innocence.

JULIETTE ADAM.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

BOONS AND BANES OF FREE SILVER.

I.—"IN THE INTEREST OF SHYLOCK."

BY THE HON. R. P. BLAND, CHAIRMAN OF THE COMMITTEE ON COINAGE, WEIGHTS AND MEASURES OF THE HOUSE OF REPRESENTATIVES.

THE adjournment of the Monetary Conference recently held at Brussels without any definite conclusions or agreements on the silver question is no disappointment or surprise to any one.

The Conference was not solicited by our Government with the view of any serious consideration of the matters involved. It was well known here and abroad that the moving cause of the conference on the part of our Government was to defeat or postpone legislation on the silver question, and to amuse and deceive the people, pending the Presidential election. Able and affable gentlemen met in debate, suggested vague and impossible plans, had a good time, and finally adjourned, expressing the hope that the junketing farce may be repeated in May.

Our delegates were met with the same arguments there that we are at all times regaled with here. These arguments were to the effect that the movement for the free coinage of silver, or any recognition of silver as a money metal is impracticable in view of the fact that the output of silver is so overwhelming as to endanger the stability of values, that our mines can be made to yield silver without limit, that the whole silver movement is prompted by the "Bonanza Kings;" that the people outside of the mining camps who are demanding the free coinage

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of silver are lunatics who have not sufficient intelligence to know their own interests; that the government of the United States has loaded itself to the guards with this base metal and now seeks to induce and inveigle the unsuspecting foreigner to help "Uncle Sam" take care of the elephant. We need not go from home to hear these things. We ought not to be surprised that the story is repeated to us by the foreigner. From our own lips we stand condemned.

At last our astute diplomats become very grave and serious and pretend to get mad; they tell these ignorant foreigners that the United States will no longer try to hold the monetary world up by the tail, but will immediately cut the gordian knot in this caudal appendage and let the world drop with a leaden thud.

The unsophisticated foreigner smiles, our gold-standard delegate smirks; both understand that such a conclusion is precisely the thing they have plotted for. Hence the conclusion always arrived at is, that to coerce the unwilling foreigner we must return to the statesmanship of 1873, and again totally discard silver as money.

The trick will not work. Once thoroughly convince Europe that this country will not submit to silver demonetization; let us go to free coinage and the problem will be solved. The European interests here and the commercial importance of this country to them are too great to be ignored. Their self-preservation will compel them to join with us in the full restoration of silver. But so long as they can induce us to adopt a system advantageous to them and disadvantageous to ourselves we will get no encouragement from that quarter on the silver question.

We have had two experiences with respect to the plan of monetary conferences—the one held at Brussels just adjourned and the conference at Paris in 1878, and the second session of the same conference in 1881. The Paris conferences were held in pursuance of Act of Congress of February 28, 1878, the House of Representatives having passed a bill by more than two-thirds majority restoring silver to free coinage. The Senate amended the bill by limiting the coinage to Government account providing that the Secretary of the Treasury should purchase monthly not less than two million, nor more than four million dollars worth of silver and coin it into standard dollars as fast as purchased. The second section of this bill provided, instead of free coinage, that

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the question of free coinage should be referred to international agreement, and authorized a conference to be held for that purpose.

The first session of this conference was begun at Paris on August 19, 1878, the second session at the same place April 19, 1881. No definite conclusions were reached or even hoped for at any of these conferences the main object of which was to stem the popular tide for the free coinage of silver in this country; to gain time and the opportunity to go back to the demonetization policy of 1873.

It would require too much space to trace the history of the silver question in this country since the act of February 28, 1878. It is well known that since the Paris conferences, the advocates of the single gold standard have continuously urged Congress to demonetize silver. Every administration has been hostile to silver. The governments of Europe have been repeatedly advised that we intended to discontinue our purchases.

The moneyed interests of Europe and the United States have been in a close league to stop our use of silver as money. They have resorted to every device, to every argument that ingenuity and misrepresentation could suggest, to induce the American people to abandon silver.

The proposition of Mr. Alfred de Rothschild for European governments to purchase annually five million pounds sterling of silver bullion at a price not to exceed 43 pence per ounce for five years, to cease such purchases at any time the price should exceed 43 pence per ounce, illustrates the position of the money power there and here. They do not intend that gold shall fall in value. It is the fall of gold that haunts them as the dreaded spectre of silver restoration.

Should silver go above its present level it would mean that gold had fallen. The truth is that silver bullion will buy as much of commodities to-day as ever; that it has not in fact fallen, for as silver goes down as compared to gold, so do all other things. The rise in silver would, and does, mean the rise of commodities, or, what is the same thing, the fall of gold. This is the true situation. It is not cheap silver they fear, but it is cheap gold they are battling against. They appreciate the fact that a full restoration of silver to its old relation to gold means the fall of gold; that the equalization of the two metals will

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

be reached by a fall in gold, and that the fall in the value of gold will be greater probably than the rise in silver.

Gold will fall and silver will rise in value, and meeting each other midway the parity is restored. The holders of stocks, bonds and mortgages and fixed incomes are determined there shall be no fall in gold. They must have the best money in the world—but another name for dearest and scarcest money in the world. On this line the battle rages, yet the gold advocates are artful enough to deceive many with the cry of cheap silver. They see gold going up from year to year; they see their pound sterling or their dollar increased in value. These increasing exactions on productive labor to pay their demands, measured by gold, increases from year to year. They shall not escape the logic of this situation by the deceptive slogan of cheap silver.

The Presidential election has passed; this monetary farce has ended; what next? It is hinted very broadly that the gold bugs are active, and that they are not at all satisfied with the present situation. Having defeated free coinage they are emboldened to attempt the total elimination of further silver purchases or coinage. Both the Democratic and Republican parties put the tariff question ahead of the silver question as the paramount issue in the last campaign. Since the election, however, the gold advocates in both parties now claim that the first pressing business for Congress to do is to settle the silver question upon the lines of the gold standard theory. They will be met, as they have heretofore been met, with the demand for the unlimited coinage of silver.

The Chicago or Democratic platform while favoring the repeal of the present silver law also favored unlimited coinage as a substitute. The ratio at which the two metals were to be coined was not fixed, but must necessarily be adjusted by Congress.

The fact that the silver dollar and the gold dollar are of the same value in purchasing power to-day would suggest the present ratio, the ratio practically existing since the formation of our government. The unlimited coinage of silver converts all bullion not otherwise used, as in the arts, etc., into interest-bearing money; the bullion thus utilized restores its value equal to the value of gold bullion, which now has a monopoly of this monetary function. This fact is shown by all past experience and history. The object lesson of nearly four thousand millions of silver money

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

maintaining a parity with a like amount of gold at 15½ to 1 in the monetary circulation of the world, as well as our own present condition, where we see about four hundred and twenty millions of silver dollars and certificates and a like amount of gold circulating side by side as equivalent, shows conclusively that there is no reason, equity or justice in the demand for more silver in the dollar. It shows also the animus of Mr. de Rothschild's proposition, that by international agreement silver bullion, as compared to gold, shall be doomed to its present degraded position.

The proposition of Mr. de Rothschild means that the ratio to be established by international agreement between gold and silver shall in effect require nearly thirty cents more silver in the dollar than in the present ratio. It means lthat the four thousand million dollars of silver now in circulation must be recoined or rated at a loss of thirty cents in the dollar. This would occasion a contraction of the world's money at one fell decree of one thousand two hundred million dollars. It would mean for us a contraction in our silver money of nearly one hundred and twenty-five millions of dollars. The proposition is monstrous. But it would go much further than this; it would lay the confiscating hand on the product of silver for all the ages to come, by filching and contracting the coining value thirty cents in the dollar, or one-third.

All this is proposed in the interest of Shylock, that his gold shall not compete on equal terms with silver.

As further argument of the question of the ratio I beg to submit an extract from the article of the writer hereof in the NORTH AMERICAN REVIEW, for July 1892, as follows:

In adopting a ratio for ourselves, or by concurrent action of other nations, the ratio of 15½ or our own ratio of 16 should be selected. First, because it is the ratio, or it approaches the ratio, that has existed in the commercial world for centuries, and at which the coined gold and coined silver of the nations circulate at par in the countries where coined. Secondly, this is about the average ratio at which the nations of the world coin gold and silver into legal tender money. Thirdly, it is near the relative amount in weight of the existing coined stock of the two metals.

The Director of the Mint gives the amount of gold money in the world at $3,711,845,000, of silver $3,939,578,000. Of this amount in silver he estimates $544,166,000 to be subsidiary or limited tender. This estimate is made upon the nominal value of the silver coins at the ratio or coining value of silver in the different countries where the stocks of silver money exist. Hence the average of full legal tender for silver would be about 15½ in weight of silver to 1 of gold. The limited tender or fractional silver would

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

be about 14 of silver to 1 of gold. So that it is apparent that the amount of silver money in the world is about 15½ times as great per weight of metal as that of gold.

If we take the product of gold from 1873 to 1891, as shown by the Director of the Mint last winter in hearings before our coinage committee of the House of Representatives, we find the product of gold in fine ounces to be about 98,606,925, and that of silver 1,512,174,000 in fine ounces. This shows a ratio of production per weight in fine ounces of about 15½ of silver to one of gold. The facts above show that of the gold and silver money throughout the world the ratio per weight of metal is about 15½ to 1.

The product from 1873 to the present time is about 15½ ounces of silver to one of gold, so that 15½ seems to be near the natural ratio. The fact that for the last four or five years the annual product of silver at this ratio has been greater than the product of gold does not mitigate against the argument. A series of years should be taken. The mines may, in a short time, show a greater product of gold than of silver. Even the occurrence of a disproportional product of one or the other of these metals for a series of years, as, for instance, of gold in excess of silver during the large output of California, and Australia, fails to disturb the plan of 15½. The annual product constitutes too small a per cent. of the vast stock of metals on hand to cause any perceptible fluctuations in values. The equity of contracts the world over demands 15½ or 16 as the ratio; since the coined silver money of the world rests at about these rates, and the debts of the world were and are contracted to be paid on this basis, it would be a robbery of debtors to demand more silver in the dollar. It would be unjust to debtors as well as to the welfare of future generations to limit the monetary functions of silver by increasing the amount of silver in the dollar. To first demonetize silver for the purpose of precipitating a rise in gold as compared with silver, and to seize upon this flagrant wrong as an excuse for readjusting the ratio in the interest of the money lenders of the present and the Shylocks of the future, ought not to be tolerated.

The late Secretary Windom, on page 73 of his report for 1887, well remarks in this connection: "The paramount objections to this plan, however, is that it would have a decided tendency to prevent any rise in the value of silver. Seizing it at its present low price the law would, in effect, declare that it must remain there forever, so far as its uses for coinage are concerned."

I was not an advocate of the enactment of the present silver law; on the contrary, I opposed it. First, because no compromise or makeshift was likely to satisfy the expectations of the people or do justice to them. Again, the law is based upon a wrong principle. But it is the only recognition of silver we have. It is a connecting link between total demonetization and free coinage, hence its repeal without other enactment will not do. Its enforcement will in time compel us to free coinage in order to maintain the value of our silver. Seeing this condition, the gold party are determined to stop the further accumulation of silver. On these lines the battle is to be fought.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

If silver is not suitable for a place in our monetary system as a standard of money, the equal of gold, not a dollar of it ought to be coined. If it is a base metal, as Senator Sherman claims, and belongs to the category of nickel, copper and steel rails, we should say so in our statute books and relegate it where it belongs. Will Congress take this view of it? Will the people permit the total destruction of silver as a money metal? These are questions that must be answered.

The repeal of the present law without at the same time substituting some other recognition of silver as having a permanent place in our system as a money metal will, of course, mean its abandonment and final demonetization.

Will any political party take such a responsibility upon itself? If so, what class of the American people will it afterwards look to for support? From what quarter of the country will it receive the encouraging words: "Well done, good and faithful servant?" From what part of the laboring and producing masses of our people would it appeal to as the conservator and guardian of their interests?

But more aptly the question may be asked: What part of our land has it selected for its final resting place? Is it ready to join the bleeding cohorts and discomfited knights of the Force Bill?

R. P. BLAND.

II.—A WARNING TO SAVINGS BANK DEPOSITORS.

BY JOHN HARSEN RHOADES, PRESIDENT OF THE GREENWICH SAVINGS BANK, NEW YORK.

"To BE forewarned is to be forearmed," and it may be well, at a time when the question of the ability of the Government to maintain, under existing laws, a parity between gold and silver is being freely discussed in financial circles, and grave fear is entertained that as a result of the continued large monthly purchases of silver bullion the day is not far distant when we must face a premium on gold, to consider what effect this parting in value from the existing ratio between gold and silver will have

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

upon the savings banks throughout the country, and upon depositors themselves, who number in this State alone one million and a half, and in the aggregate throughout the country at least four millions of population, with deposits amounting to over seventeen hundred millions of dollars.

Savings Banks (certainly in the Eastern and Middle States) are purely benevolent in their character, having no capital and issuing no stock, and are managed by Trustees, who give their time and judgment gratuitously to the work on behalf of the best interests of the people at large. In charge, therefore, of a great and beneficent trust, with all the moral responsibility which properly attaches itself to their work, when it is considered that the moneys deposited are the property and to a large extent constitute the hard-earned savings of the laboring classes, these Trustees are bound to exercise at all times great caution. Their management must be thoroughly conservative in its character, and no personal motive should sway their judgment or control their action. What, then, are the issues which, under the existence of a premium on gold, they are called upon to meet?

As a rule these banks are under close State supervision and governed by well-regulated general laws restricting investments to those which offer the greatest security to the depositor, in addition to which they are in possession of strong reserves in surplus earnings created through the operation of the laws which govern their management. In consequence of this there are no depositories in the country for the savings of the masses in which the risk of loss has been reduced to so low a minimum; but the class of people for whom the banks for savings are intended are often ignorant, easily alarmed, and when alarmed become panic-stricken, and there is danger that with a premium on gold there will come to the depositor a sense of loss upon his savings. Knowing neither the "why nor the wherefore" he will, in the excitement of the hour, seek to obtain possession of his deposits in the expectation that he can thus avert a loss. The deposits, once obtained, are generally unwisely expended or invested in doubtful securities; while if allowed to remain until the era of inflation is over and the premium on gold has disappeared, they could be returned to him in a currency fully equal to if not superior to that in which the deposit was originally made. The known strength of the

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

institutions themselves, coupled with a prompt strengthening of cash reserves, and every effort made to allay excitement, will in all probability prevent disastrous consequences; but the danger exists, and shows one phase of the tremendous shock to credit which the mad race for unrestricted coinage now in progress will produce, unless stopped in time.

In this State alone savings banks have two hundred and sixty millions of dollars loaned upon real estate, known as bond and mortgage loans. There are but few of these mortgages so held which contain an agreement to pay the principal in gold or its equivalent when payment is demanded, after becoming due and payable. What, then, is the duty of those who manage these institutions? Shall these mortgages when past due be called in for payment, or a "gold clause" insisted upon as a measure of precaution both in reference to those held as well as to future investments in this class of property? If so, then a serious derangement in the rates of interest paid, and, to a certain extent, in the value of real estate itself must ensue, and on no class of the community would this derangement fall heavier than upon the farmer, who, at best, finds it difficult to secure permanent loans upon his property.

Whatever rule is adopted by other leading financial institutions in the country will, in all probability, be followed by the savings banks, and the extent of the precaution, if exercised, will be determined by the exigencies of the occasion as they may arise; but the question is a serious one and on its decision rests the welfare of a large number of that *debtor class for whose financial aid free coinage is invoked.*

Among the assets of the banks probably more than three hundred millions are invested in securities which contain no provision requiring the principal when due to be paid in gold coin; and in reference to these, and especially those maturing at an early date, a decline in market value must necessarily ensue, greater or less, as the date of maturity is close at hand or in a somewhat distant future. But the surplus earnings now held by the banks are far more than sufficient to meet any possible decline in values which may arise in the direction named; while as to future investments, the demand for what is termed "gold loans" and the lower rate of interest obtainable thereby, would undoubtedly induce municipalities and corporations to embody such an agreement in all future loans offered to the public.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

But beyond all these questions which affect the assets of the banks, there is another question far more serious in its character, and that is: *How will the depositor himself be affected through* a premium on gold? Deposits are received and must be paid in the currency of the country, whatever the circulating medium may be at the time of payment. The amounts withdrawn annually from the banks in this State aggregate one-third of the entire sum on deposit, or an average total of one hundred and ninety millions of dollars; and this percentage, or at least one-fourth, may be set down as the rule when applied to the country at large.

The experience of the past has proved beyond question that the existence of a currency not on a par with gold produces inflation in the values of all property, both real and personal—the greater or less as the breach widens or narrows between the two, and accelerated if the separation is coupled with continued new issues of that which is of a lesser value.

In the presence of these facts the depositor, whose only property is generally the savings which from year to year out of small earnings he has laid by for future need, will find himself compelled, as from time to time he withdraws his deposits, to receive in payment therefor a currency, the purchasing power of which is steadily decreasing as the premium on gold increases. In other words, which practically means the same thing, his rent, clothing, furniture and food, which go to make up nearly all the necessaries of life, will cost him more, though subject to those fluctuations in value which arise from short supply, over-production and improved methods of production, for the reason that under all conditions he will be compelled to purchase at *currency prices* which must be in excess of those obtainable in *gold coin*, while during the progress of inflation, his wages already high will not advance in anything like the same proportion as do those necessaries of life which are needed for his support. The result of this will be that his ability to save will lessen until it has ceased entirely, while the burden of support will rest a heavier load than ever upon his shoulders.

And if this be true while inflation progresses, what must the result be when the time comes—*and come it will*—when the fever has exhausted itself and returning reason leads back to a sound and stable currency? Then with declining values and a de-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

pressed condition of trade he will find himself once more the victim of circumstances and for the time being be compelled to accept reduced compensation and irregular periods of employment. As all wealth springs from the soil, so do all fluctuations in value pulsate back to the source from which they came, and "he who earns his bread by the sweat of his brow" while through conditions of general prosperity or increased returns for his labor, shares in the gains, is both unprepared and powerless to protect himself from losses when they come, and which, with resistless force, bear him to the ground.

As a nation we are great and strong, rich and prosperous, fertile in resources and patriotic to the core. We can and do stand much bad legislation, and rally quickly when stricken down; but the poison of inflation is in our blood, doing its deadly work, and nothing remains for us but to hope and believe that the "common sense" of the American people, which is at once our glory and our pride, will make its voice heard and heeded in the counsels of the nation before it is too late, and we are forced to learn, through bitter experience and at material loss, the lesson which history can teach, but to which we seemingly give no heed.

JOHN HARSEN RHOADES.

III.—A DEPOSITOR'S POINT OF VIEW.

BY A DEPOSITOR IN A SAVINGS BANK.

I AM a clerk in a store up town earning $25 a week. I have a wife and two children and I have just $1,500 saved up. The way I became possessed of all this money was as follows: Whatever my salary was I put one-quarter of it away each week in the savings bank, and then my wife and myself scratched around and tried to save as much out of the balance as we could.

Now the day our savings should reach the sum I have mentioned, we had resolved to commemorate the event in a becoming manner, so we ordered a nice little dinner at a restaurant around the corner from where we lived, and took seats for the play afterwards.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

I think it was the Egyptians who invariably had a death's head introduced at their feasts to prevent their becoming too happy. Alas, we didn't need one at ours, as matters turned out. While we were in the middle of our entertainment we became attracted by a discussion between two gentlemen seated at the nearest table. They were evidently just finishing their meal, and when they rose to go one of them emphatically gave utterance to the following remark: "I don't know what other effect it will have," he said, "but I tell you this, if the Sherman act is not repealed very quickly there isn't a bank in the country that's safe." Now I vaguely knew that the Sherman act was connected with the silver question, but the silver question had heretofore had no more interest for me than the diamond question of South Africa might have. If the silver question could affect the banks, however, or more particularly the savings banks, it brought matters home to me.

All through the remainder of our meal the man's remark kept ringing in my ears. It sounded as a distinct note of warning and quite cast a damper on our anticipated pleasure at the play. Please don't laugh at our anxiety, but any reflection that our $1,500 was unsafe after we had it in the bank was not a pleasant one. God knows we had deprived ourselves of enough to lay by that money; we had pinched and saved and scrimped and, after all, it was only that we should have provision against a rainy day. Nevertheless, we filled out the programme for the evening, though it was in a somewhat perfunctory manner, resolving that we would leave till the morrow an investigation of the chance words we had heard.

The next day after business hours I asked for an interview with the head of the firm where I was employed, and by way of preliminary had a talk with him on the subject of the silver question generally.

The gist of his opinion was that if the government did not repeal the Sherman act, or issue bonds to counteract the flow of gold out of the country, too little gold would remain; gold would then rise to a premium and we would slide on to a silver basis before we knew it. He thought, however, the banks were prepared for the emergency. Thus I did not seem to have much cause for alarm; my salary was pretty sure, and if the banks did not fail my money also was secure. All the same, however, I

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

thought I would go over and talk with the president of the bank where I had my savings. I was received very politely; not at all in the toploftical way I had anticipated. He reiterated what the head of my firm had told me. "Even if gold should go to a premium," he said, "we are prepared, and I do not anticipate that there would be any monetary stringency during the transition."

"How high, sir," I asked, "do you think gold would go if it did rise to a premium?"

"Well, it might go, and probably would go, to a point that would mark the difference between the actual value of gold and silver."

"What is that difference?"

"Well, a silver dollar could be produced now, I think, if the truth were known, for about thirty-three cents in gold; therefore, gold might go to a premium of about three hundred per cent."

"Well, now, Mr. President," I asked, "how about the money I've got in bank? Suppose gold had gone to such a premium and I wished to draw out the money, would I get paid my fifteen hundred dollars in gold?"

He smiled. "I hardly think that would be possible," he said.

It came upon me like a flash. I would get my fifteen hundred dollars in silver, or in a currency worth two-thirds less than I had put in. In other words, I had put fifteen hundred dollars in the bank, and would take out a sum, measured by the same standard of value as my deposit, equivalent to about five hundred dollars only.

"Give me my money right away," said I, "I'll withdraw it before gold does rise to a premium."

"What will you do with it?" said he.

"Aren't there gold bonds or mortgages paid in gold—that I could invest it in?" I asked.

"Certainly," he replied, "but if you bought these, and gold rose to the point I mentioned, it is probable, or say possible, few companies could meet the strain and pay either interest or principal in anything else than legal tender. So you would be no better off, or at most have an expensive lawsuit on your hands to compel them to fulfil their obligations.

"What shall I do to be secure, Mr. President?" Then I told him how hard both my wife and myself had struggled to put by

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that money; how many deprivations it represented—how many little pleasures had been postponed and given up; that neither parsimony or miserliness had anything to do with its acquisition, but only my health had not been over-good and we recognized the necessity of having something secure against a day when I could no longer attend to my business.

He seemed touched by my story.

"The only absolutely safe plan," he answered, "is to buy gold before it goes to a premium, and we can keep it for you in the vaults here. The sole risk you would run is the loss of interest should gold remain as it is."

"One more question, Mr. President. What do you think are the chances that gold *will* remain as it is?"

"Confidentially, I think they are very slim, unless Congress repeals the Sherman act. The business of the country was never better, but it cannot stand the continuation of the purchase of four millions of silver per month." My mind was made up.

It was certainly a hardship to lose the interest on my money, but I could afford to lose that better than to suffer a big cut in my capital, so I made the exchange and deposited the gold in the vaults.

At last I felt secure, but the anxiety I had gone through awoke my interest in this silver question and the real danger to the community should the Sherman act not be repealed. I thought about it day and night—no longer in my own interest, but in its bearings on others situated like myself, and the more I thought of it the wider seemed to grow the possibilities of evil.

All these people who have put by a little money may one of these days wake up and find, not only their capital, but their interest, cut down by two-thirds the value. Every one who has bought a few shares of stock or a railroad bond may find his interest paid in a commodity worth one-third of what he had counted on receiving. Every one, too, who has been paying a premium on his life in good money may expect his family to find themselves on his death in possession of a policy equal in value to one-third of what they had the right to expect. Every old soldier who draws a pension (there are some who deserve them), every one engaged at a salary in every business, every government employee and the recipient of trust funds, will receive his or her quota,

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

interest, or salary in a depreciated coin. The more I thought of it the madder I got. It is the poor man's money, say the silver-people. The poor man's money, forsooth! Just think of the satire of it. These silver-kings making obligations to themselves payable in gold, forcing the Government to buy up four millions a month of the output of their mines to sustain the price, and then calling silver the poor man's money! It is the poor man's money in this way: that it is liable to make any one three times poorer than he now is who gets paid in it, and that is all there is about it.

DEPOSITOR IN A SAVINGS BANK.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

STAG HUNTING IN DEVON AND SOMERSET.

BY THE RIGHT HON. SUSAN, COUNTESS OF MALMESBURY.

I.

IT WOULD be too much to expect of anyone, not West-Country born or bred, to feel as passionately stirred by this, the finest and most genuine of English sports, as those who from their youth have drunk deep of the exhilarating air which sweeps over the Quantock and Exmoor districts, "the Haunt of the Wild Red Deer." But, considering what hunting with the "Devon and Somerset" actually is, and that in no other part of England is their noble quarry to be found, while neither in Scotland nor in Ireland, where he still exists, is he treated like the gallant gentleman he really is, it is a matter for surprise that the sport should not be more widely known—not that we of the West ardently desire to advertise the matter, for do not the present fields number thousands on foot and horses by fifties instead of the small devoted following of former days? And among these thousands, alas! how many true sportsmen are there to be found? The question is one best left unanswered, but how anyone can condescend to run a fallow buck or a carted deer who could hunt a wild "forester" in his own spacious domain, perhaps for thirty miles, as the crow flies, across the heather light into the Bristol Channel, is more than we of the "West Country" can understand.

Writing as I am for American readers, I wish to begin by making it clearly understood with what part of England we have now to deal, and I cannot help feeling that what seemed to me a large expanse of uncultivated country must to them appear a little spot indeed. Everything, however, is by comparison, and the district where the red deer have harbored free and uncon-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

trolled since the Conquest—and before that time—is of great extent when the map of England is considered and the inroads of civilization are taken into account.

Looking at the two counties of Devon and Somerset and drawing a line on the map from Bridgewater to Ilfracombe, thence to Exeter, and from Exeter back again to Bridgewater, you get, according to one of the best authorities,* a rough notion of the country traversed by the deer, although they sometimes stray outside these imaginary bounds or are run further afield by the hounds. This applies to the present state of affairs, since the Quantock country has been regularly hunted and reserved to the deer, but these were originally to be found, practically speaking, all over England; then, by dint of poaching and being killed in various ways and for different reasons, the small remnant of the ancient race of foresters, or wild red deer, retreated to the remote district of the Exe, where they had a certain immunity from attack and where their depredations were of no consequence owing to absence of cultivation.

Exmoor, from the time of the Conquest, was a royal forest, which does not in the least signify a wood, many so-called *forests* being, as in this case, to a great extent bare of trees, but simply a district where the deer enjoy certain rights and protection as royal beasts of the chase, and which they make their habitual resort.

The first authentic record of Exmoor as a royal hunting ground comes to us in the form of a charter, dated May, 1204, by which Devonshire, up to certain given bounds, was freed from the severity of forest law. Ninety years later Edward I. caused a "perambulation" to be made, the results of which are preserved, and by which it would appear that the district extended further north than at present, but the boundaries to the south and west were those of the present division between the two counties. Certain other portions of Exmoor were then disafforested, a concession which meant a great deal in days when it was death or mutilation to kill or injure a royal stag, and when no one within ten miles of forest bounds was allowed to keep a hound which had not been "expedited," that is, the ball of the forefoot cut out to prevent any possibility of his running deer.†

* Richard Jefferies, "The Red Deer."
† These laws were in force in the New Forest of Hampshire.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

These and other worse barbarities gradually fell into disuse, or were abrogated as too oppressive, until at last, in the reign of George III., an act of Parliament was passed to permit certain enclosures to be made and constituted the King's private property, giving him power to sell the rest of the land.

The extent of Exmoor Forest proper was then about eighteen hundred acres, of which about ten were made over to Sir Thomas Acland in compensation for his claim of tithe over the whole, and to certain other landholders instead of their ancient forest rights. The whole of this was bought by a Worcestershire gentleman, who endeavored, fortunately with very poor success, although he sank a vast sum of money, to bring the land into cultivation, and to enclose this large tract of barren soil, which produces little but coarse and wiry grass.

Outside this special district and in the whole of the Quantock country the hills, which range up to about thirteen hundred feet in height, are clothed to their tops with heather and the whortleberry, their sides being deeply scored by narrow valleys, wooded up to the point where the stunted tree-tops catch the biting wind, which shaves them off sharply as with a shears. Each of these "coombes," as they are locally called, has a mountain stream running down it, and here the deer come to bathe or soil,* as it is technically called, in the summer, when the heat and flies try them, or to refresh themselves during the chase or after one of their desperate fights. The sides of these coombes are very steep, and are a great test of the endurance of stag, horse, or hound. For this reason short, cobby horses are mostly used, but they must be well bred, as well as stout and sure of foot, else stag and hounds may very well run clean away from them, particularly if it is rather late in the season, and the stag, no longer so fat, is of the light galloping sort we shall presently hear of, or if a hind is being hunted.

From the top of the Quantock range of hills you look out across the Bristol Channel with the Steep and Flat Holmes, Lundy Island, farther south, and across the water Wales is plainly to be seen on a clear day. Behind you lies the fertile valley of Taunton Dean, while south and east stretch the Exmoor and and Dartmoor countries. All through this part of England the forester roams unmolested at his own lordly pleasure, save when hunted at stated times, feeding at will on the daintiest fare, drink-

* From the old French term in venery—*souler*, to wash or soak.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ing none but the sweetest running water, a *gourmet* and an aristocrat, whose pedigree goes back, at any rate, a long way beyond that of any who have tried to prove that he is not indigenous to the soil.

I should mention that the red deer are known as stag, hind, and calf, and not, like their fellow cousins, as buck, doe, and fawn. To be more accurate, the stag is only known as such when he becomes "warrantable," that is, of an age to be run, which is shown by his head, and which he cannot be until five years old. In rare cases he may be thought fit to hunt at the age of four. The horns of the red deer are quite unlike those of any other, and the subject of their growth and condition at different periods is so obscure and so vexed that only an approximate opinion can be expressed, experts being in many cases quite at variance. I will try to state, as clearly and briefly as possible, what, in the West Country, is considered to be the rule, to which, however, there are numerous exceptions.

By the time a deer is five years old he should have what are called his "rights," that is, the *brow antler*, which is nearest the base of the horn or *burr*, the *bez* or *bay*, an inch or two higher up the *beam* or *upright* (main shaft of the horn), the *tray* or *tres* above that, and finally *two on top*, or two points on one of his antlers. This constitutes a stag of light points—a runnable or warrantable deer, who will, in another year, have two on top on both sides and become a stag of ten points. In Scotland when there are three on top on both sides the head is termed a royal one, but I have never heard the term used in the West. Most of these words are derived from old Norman-French hunting terms, but the deer themselves are called by names which sound unmistakably English. In his first year, for instance, a young male deer is a calf, at two years he is a "knobber," "knobbler" or "brochet," from his budding antlers, a hind at the same age being called a "hearst." In the third year, he is a "spire" or "pricket," the upright beam having formed, after which he becomes a "staggart," attaining to his full titles and dignities at the age of five.

The actual condition of the head is subject to a great many variations, some of the points given above being occasionally wanting, but it is safe to say that, save in a case of actual deformity, the brow antlers are always to be found. It is with these that

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the stag at bay is able to do most damage, particularly if he can succeed in transfixing his antagonist against a rock, or any hard resisting surface. He will sometimes go right through a hound's body in this way, and inflict grievous wounds on horse or man incautious enough to approach too near him. It is only fair to add that he will never attack a man of his own free will, but in those desperate last moments will always sell his life as dearly as he can.

Another element in the growth of the horns is the fact that, although they are generally born in the month of June, a hunted hind has been known to have a very young calf with her as late as November, so recently born that the hounds were whipped off in consequence. The natural constitution and strength of the animal, his feeding and any accidental injury received, either to the head itself or to any other part of his body, also determines almost as much as his age the state of perfection to which his antlers may have arrived. Up to five years, the age of a deer may be known by his teeth, but this is naturally of no use to the hunter who has first to catch his stag!

After eight years they begin generally to "go back;" their bodies shrink, their antlers become smoother, smaller and less wide spreading, but here again the rule must not be resorted to implicitly, as a certain stag, well known to be at least fourteen years old, had a head of nineteen points. In color, the forester is a reddish brown, shading off into light fawn underneath. The hinds are a duller hue, while their calves are for the first three months of their life dappled like a fawn. Their muzzles are shorter and more pointed than their German relatives. They are altogether lighter and more graceful. That the red deer is a distinct variety is shown by the fact that the calves always come true to their known characteristics, and that they disdain to sully the purity of their ancient race by a mésalliance with either fallow or roe.

The stag is a very dainty, fine gentleman indeed; the best of everything is not too good for him, and the damage he does the neighboring farmers would hardly be believed. He always feeds at night, and in the early morning returns to his bed in a favorite wood. This is technically called his *layer*, and here he lies snug with his head down wind resting for the day. Otherwise he always keeps his nostrils to the wind. In one night he

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

will do incredible mischief in a field of turnips, which he pulls up by the roots, eating only one bite out of each and tossing the remainder disdainfully over his head. He will go into a field of ripe corn, and, catching three or four ears at a time between his teeth, delicately strip them without tearing them up by the roots, and earlier in the year, when the stalks are green and succulent, three or four stags will, in one night, make a deplorable spectacle of a young crop. At one time, when the numbers of the deer became very much reduced, turnips and corn were purposely planted for them, but since the beginning of the century they have fed as they could.

In spite of their sufferings, the farmers are so devoted to the sport, which indeed could not continue to exist without their forbearance, that one never hears nowadays of a stag being shot or mutilated by them. They are, of course, compensated for their losses, but it is difficult to make good to them the disappointment or annoyance they so cheerfully endure in a sportsmanlike spirit. Scarcely any fence will keep out a stag, who will jump great heights standing, never seeming to choose an easy place, while he is very bold when in search of a favorite dish, and is not to be taken in by any scarecrow or other clumsy device of man.

So far as can be ascertained, the first pack of hounds actually used for stag hunting was kept by Hugh Pollard, the Ranger of Exmoor Forest at Simonsbath in the heart of that country, in the days of Queen Elizabeth, and his successors continued to keep up the sport till the end of the seventeenth century, after which time the history of the pack becomes that of the old Devonshire families of the neighborhood, passing from one to another. Sir Thomas Acland hunted the country at his own expense for fifty years and was succeeded in 1770 by his son, a second Sir Thomas.

There is a curious letter still existing at Exeter dated from Dulverton in 1769, written by one of the park-keepers of "Courteney Walrond" to a sporting barber in the town. This epistle gives a very good picture of the manners of the time, although it is exceedingly strange that a man in that class should have been able to write at all, for even great ladies of that date, with a name in history, were some of them scarce able to do so, while their spelling of one and the same word looks as variable as the skies under which they first saw the light. The letter in question is reproduced at full length in Capt. Fortescue's book on Stag-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Hunting, and gives a graphic account of how the first-named gentleman, accompanied by several friends and servants started at two o'clock, one September morning, and did not reach the place where they were to meet Sir Thomas and his beauties till ten—a goodly time to spend in riding twenty miles. They dined early in those days, so that, although they sat for several hours afterwards drinking deep, they may yet have been fairly sober by the time they started.

We shall never know in what reposeful ditch or half-way house these morning hours were spent, but later on we hear that "Master" and his friends "rode exceeding bold," while from the reputation of Sir Thomas for hospitality—a fame undimmed by the passage of a century, it is only too probable that these gentlemen were but (as the writer too rashly avers) "in very good order" when they went to bed, since we learned that they all dined at Pixton* and drank "several proper healths." I cannot help fancying that Sir Thomas's claret and port were like himself—sound, generous and much appreciated.

I should here mention the horrible custom, which prevailed for many years, and which would certainly not strengthen our degenerate nerves, weakened by jorums of tea, or give us an appetite for dinner—the ceremony of drinking the stag's health. This was done when the huntsman brought in the head at supper, and after sounding the "mort," opened the stag's mouth and fixing a quart glass of claret or port between the jaws, handed round the ghastly goblet that everyone present might honor the toast.

The staghounds of these days were very different from the present pack. They were tall, heavy and slow; they had a good deal of the bloodhound in them, with the solemn face and long drooping ears of that race, and were apt to be very much punished by a long day after what Lord Graves, who was master at the end of last century, describes as a "light galloping stag," and which he specially recommends his successor to avoid on account of the havoc their terrific pace made with both horses and hounds, which were sometimes not fit to come out again for a fortnight. Nowadays, however, the "Devon and Somerset" are a very different breed and are recruited from almost every pack in the kingdom, most of them being simply over-sized foxhounds, drafted out of their original kennels for that reason. They get through the heather

*Sir Thomas Acland's country-house—headquarters of the pack.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

much more easily, their pace and endurance is greater, their feet less tender, and when properly handled at first and entered to deer there is little difficulty with them—except in the matter of sheep. Yes, I blush to relate it, but this is a true history, naught being extenuated and naught being set down in malice. The stanchest hound will sometimes cover himself with obloquy, forsaking the path of fame and virtue to kill a sheep.

Let me hasten to draw a veil over this damaging admission, merely putting forward as an extenuating circumstance that there is said to be a great similarity of scent between the little half-wild Exmoor sheep and the red deer, while Exmoor mutton is to my certain knowledge more like venison in flavor than anything else. There is also this to be said, that there is no end to the wiles of a hunted deer, and that when he throws himself among a flock of sheep it is very confusing to the hounds, who are, moreover, famished and exhausted perhaps with a long run.

To return to the history of the pack. Sir Thomas Acland was succeeded by his son of the same name, who kept up the family traditions of magnificence and hospitality, and who was still hunting the country ten years later. Of him it is recorded that when compelled to sleep out after an extra long run he chose out some member of the hunt to share his bed, accommodation being probably limited. The quality he always looked for in such a companion was that he did not snore. What would happen if a man inadvertently snored, I cannot tell, for Sir Thomas was a masterful man. Deer in those days were far more plentiful than they afterwards became, when they were simply destroyed out of revenge in consequence of feuds between the great county families, and perhaps for reasons which have not been handed down, besides being barbarously murdered by poachers. The pack then passed from the Acland family (who could ride for thirty miles across their own land) to the Bassetts and Fortescues; then to Lord Graves, in whose day there were two hundred deer in the country—a hundred short of the palmy days of the two Sir Thomases. Finally in 1825, after certain fat years of prosperity under the Fortescues, succeeded by very lean years indeed, when the sport dwindled down to almost nothing, the original pack was sold. This was the end of the last representatives of the true staghound in England. No doubt with them departed to a certain extent the race of sportsmen, who came out not to have a

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

gallop, but to watch the working of the hounds and to study and enjoy the habits of a noble wild creature in his native home, driven to use every resource given him by nature against the instinct of his four-footed and the trained intelligence of his human persecutors.

For thirty years the red deer became the prey of poachers and deer-stealers; they were left no rest and were nearly being exterminated. Various masters tried their hands at the ancient sport, but for the most part with poor success. Harriers even had their day, and it seemed as if the last remnant of the natural lords of the forest would before long be cut off from the land of the living. Finally, in the year 1855, Mr. Fenwick Brisett started afresh with a pack of foxhounds from Cornwall, and under his able and public-spirited mastership stag-hunting prospered, deer were preserved, and the country was regularly and successfully hunted for twenty-seven years.

SUSAN MALMESBURY.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

GOVERNMENT AID TO THE NICARAGUA CANAL.

BY SENATOR JOHN T. MORGAN, OF ALABAMA.

IN THE testimony of Count Ferdinand de Lesseps, given before the Select Committee of the House of Representatives, March 8, 1880 (Mis. Doc. No. 16, 44th Congress, 3d Session), he said: "There were fourteen projects of canals presented at the Paris Congress, but the interest had entirely centred in the Nicaragua and Panama routes. . . . If it were determined to build a lock canal, and if there could not be a canal between the two oceans, except a lock canal, then there was no doubt that the Nicaragua route was the best route."

The Panama Canal Company, after years of exhaustive effort, and the expenditure of immense sums of money of the French people, the loss of which even threatens the republic, has demonstrated the fact that no other than a lock canal can be built and maintained across the Isthmus of Darien at any cost that the commerce of the world would be able to bear, as the basis of toll charges.

The abandonment of the effort to change the plan of the Panama Canal from a sea-level waterway to a canal with locks (for the amount of water at the highest level has settled that problem as being beyond the reach of successful solution) has verified the assurances of Mr. Menocal and Admiral Ammen, given to the Congress at Paris, that the work was impracticable.

If the canal was built with locks and if it could be supplied with water by steam pumping, according to the last desperate alternative suggested by the company's engineers when the sea-level plan was abandoned, the future use of the canal would be embarrassed with the other insurmountable difficulties thus

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

graphically presented by Mr. Eades in his testimony before the House Select Committee, on the same hearing (Mis. Doc. 10). Mr. Eades says :

"Anyone who contemplates the depth of the proposed cut through the several miles of the Cordilleras, and thinks of the frightful rains and tempests which prevail during six months of the year, can form some faint conception, perhaps, of the amount of material which would be washed down the side of this immense cut, as well as from all other parts of the canal and which must be continually dredged out of it to preserve its usefulness.

Other statements equally worthy of credit show that no work in that locality could be maintained against the destructive floods which would suddenly rush through, what Mr. Eades describes as, "the narrow and tortuous stream which Count de Lesseps proposes to locate at the bottom of an artificial cañon to be cut through the Cordilleras at Panama."

These facts, and the opinions of many great engineers, eliminate all other canal projects from the necessity of further discussion, and leave us to consider alone the political and financial questions presented in the project of the Nicaraguan Canal, under the present concessions from Nicaragua and Costa Rica.

Those concessions are grants of rights, privileges and property to individuals, and through them to a corporation chartered in the United States. They have been complied with by that corporation, as to all the preliminary conditions, and have been confirmed as permanent grants by the governments of Nicaragua and Costa Rica.

In making these exclusive concessions these governments announce to the world a plan for the change of geographical conditions, in which all civilized nations have an interest, and, accordingly, they have so planned the canal and regulated its control as to give equal advantages without discrimination to the ships and commerce of all nations.

In this sense the concessions were a political covenant with mankind and, in this sense, it is obvious that "government aid" has, so far, supplied every element of the progress of the work. The canal is the creature, alone, of "government aid." Without discussing the right of every maritime power, other than the United States, to claim that these concessions confer upon them privileges that they may insist shall not be withdrawn, to their detriment, it is clear that the concessions distinctly relate to the political right of the United States to have an influential part

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in the project of changing the geography of the Western Hemisphere. It is provided in the concessions that "a company of execution" shall be formed, having its place of business in New York. A great corporation was contemplated which should own the concessions granted to American citizens, and that it should be subject to the laws of organization, control and administration to be enacted in the United States and enforced by like authority. All governments, and through them their people, are invited to become stockholders in the company styled in the concessions "The Maritime Canal Company of Nicaragua."

Nicaragua and Costa Rica are stockholders in the company and may vote for directors, and, through them, take part in all the doings of the directors. They are bound thereby to the full extent that is included in the grants and limitations of the concessions, as completely as the other stockholders are bound. They provide expressly for the ownership of stock in the canal company by other governments,—giving a preference to other American States in the right to subscribe for the stock. The corporation, therefore, is not only to be a public corporation, but international, and is to have governments, as its stockholders, that are to vote in the direction of the affairs of the company, including the governments that made the grants.

This is, necessarily, a very peculiar political situation, in connection with a geographical situation and its attendant necessities, that exists nowhere else in the world. It presents opportunities, rights and duties to the consideration and determination of the United States that are universally recognized as entitling us to a powerful, if not a dominant, influence in everything relating to the canal and its uses. The duties thus resting with us are well defined in the message of President Hayes when he said that "this must be an American canal, under American control."

The concessions made by Nicaragua and Costa Rica are in line with this declaration, and make it even more specific by the opportunity given to the United States to build the canal and make it subject to our control. When this new attitude had been sedately taken by those governments and was formulated in concessions to citizens of the United States—not less solemn, or obligatory, than formal treaties—Congress met the overture by granting a charter to "The Maritime Canal Company of Nicaragua,"

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to be the "company of execution" provided for in the concession. Here was the concurrent "aid" of three governments to the canal. These three republics lent their sovereign powers in aid of this benefaction to mankind, without considering the question of its cost, or its value as an investment, and without the least thought that they could help a few favorites to grow rich; or the least apprehension that, while they were all looking on at the dealings of the company of execution, and were represented in the company, any fraud or corruption could scandalize their great and patriotic work.

Congress accepted these concessions as the basis of its action, as was contemplated in their provisions, and conformed its legislation to the pledges of good faith towards our citizens in securing them the enjoyment and protection of their rights and privileges therein granted.

This was governmental control over the canal in accordance with the concessions, and Congress reserved the right to alter, amend, or repeal the charter, according to its pleasure. Congress also required the president and secretary of the canal company to make reports, under oath, from time to time, to the Secretary of the Interior, "giving such detailed statement of its officers and of its assets and liabilities as may be prescribed by the Secretary of the Interior, and any wilfully false statement so made shall be deemed perjury and punishable as such." Congress fixed the number of directors of the canal company and the manner of their election, the amount of the capital stock to be issued, and required that a majority of the Board of Directors shall be citizens and residents of the United States.

In these and other provisions of the charter, quite as important, Congress exercised legislative jurisdiction and political power over the corporation as full and complete as if this had been a domestic corporation. This, also, was "government aid" to the canal, strictly responsive to the action taken by Costa Rica and Nicaragua. It was aid without which the canal would not have been built or controlled by American citizens.

After Congress had taken this line of action and had thus created international obligations with two sister republics, and had assumed the duty of framing laws for creating and controlling "the company of execution," provided for in these concessions, for the benefit of all commercial countries, we had

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

thereby established very intimate governmental relations with this canal and its public and private promoters.

So intimate are these relations and so necessary to the preservation of the commerce, business interests and the social and political communication of our Eastern and Western States and people, and to the practical continuity of our coast line, and the safety of our country, that we may say that the United States has adopted the Nicaragua Canal as an instrumentality of government; not a means of governing Nicaragua and Costa Rica, or any foreign people, or power, but as a means necessary to the better government of our own country.

To us, this canal is as much a means of government, as it is to those republics; its distance from our possessions being the only real difference. It equally removes the barrier to water communication between the two oceans, for the benefit of each of the three republics, which is measured by twice the length of South America, and which is made extremely perilous by the dangerous navigation of the cold and turbulent seas of the Antarctic regions.

Following this result, this canal opens an easy and short route for the transit of the mails, for the passage of troops, and of ships of war and of commerce, and lessens the cost of naval armaments to all American States by about one-half. In the interest of the peace of the world, this is a blessing of incalculable value. There is no light in which this project can be viewed that does not disclose the practical necessity of this canal as an instrument of better government and a facility of actual government to the people, States and Federal Government of the United States.

No nation has the right, in view of the concessions made by Nicaragua and Costa Rica to our citizens, and of our legislation to aid and perfect those rights, to say to us that we shall not proceed to aid the canal by a subvention, or in any other way that is consistent with the sovereignty of Nicaragua and Costa Rica over their own domain.

Any other nation may as well demand of us the repeal of the charter granted by Congress to the canal company, as to say that we shall not make that legislation effectual by giving material aid to the building of the canal, and secure our government against loss. The Clayton-Bulwer treaty, our treaty with Nicaragua, concluded Aug. 21, 1867, and her treaty of Feb. 11, 1860, with

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Great Britain, upon which our treaty was modelled, all look to and provide for this canal and for material aid to it. They only exclude the right of either power from acquiring sovereign rights in Nicaragua. If British subjects now held the concessions that are owned by our people, and if Parliament should charter a "company of execution," and grant it a subsidy or any form of aid, we should have nothing to interpose, in the way of logical argument, to prevent the British Empire from dominating the canal to the extent of every power, right and privilege included in these concessions. Nicaragua and Costa Rica could not present an argument, or a plausible protest, against such dominion by Great Britain, and we could only interpose an argument upon the Monroe Doctrine, as it was emasculated by the Clayton-Bulwer treaty, if we stood simply on our treaty relations for the measure of our rights.

But we are solemnly warned and assured by the convictions of every American heart that it would be dangerous, unpatriotic and cowardly in us to admit any trans-Atlantic power to usurp the place we naturally occupy towards that route of transit between the Atlantic and Pacific oceans. We have a duty in this matter, laid upon us by the hand of Providence, which we cannot evade, and a power to execute that command, which we cannot surrender, that compel us to take a decisive part in this greatest work laid out for human hands to complete. If our internal policy is not such as to make us the least and most impotent of all the great powers, and to fetter our hands when we would stretch them forth to enlarge our commerce, increase our mail facilities, lower the shipping charges upon our productions, increase our population and their industries, and send out fleets to protect our coasts and secure respect for our flag, there is no question as to our power and duty to aid in the construction of the Nicaragua Canal.

As to getting closer to the subject and exerting sovereign dominion over the canal in the country where it is located, which some enemies of the canal insist that we should do, the answer is that we would add nothing to our proper influence over the canal by this means, and, in doing this by force, we should dishonor ourselves in the esteem of sister republics that have always trusted the honor and integrity of the United States. Then, recent history would condemn us in the eyes of all

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

nations, for, when Nicaragua tendered to us almost the full measure of sovereignty over the territory occupied by the canal, we seemed to shrink from that opportunity, as the ghost of the Clayton-Bulwer treaty seemed to rise from its forgotten grave to warn us of danger. After that, it ill becomes us to say that we will have no canal unless we shall first have *usurped* the sovereignty over Nicaragua and Costa Rica.

The Suez Canal, with almost a hundred miles of continuous digging, cost about $100,000,000; of this sum $30,000,000 was wasted in interest, commissions, changes of location, and bad management. That canal has now a traffic of nearly 9,000,000 tons annually, and it must be speedily enlarged to accommodate the commerce that is crowding through it to the western coast of the Pacific Ocean. The Nicaragua Canal has 29½ miles of canal prism, or axial, line. Of this one-third is very light dredging. The total length of this transit, from sea to sea, is 169½ miles; of this line, 155¼ miles is slack water navigation at an elevation of 110 feet above the level of the sea.

This small lift is overcome by six locks—three on either side of the lake. The entire cost of the canal ready for use, as estimated by Mr. Menocal, allowing 25 per cent. for contingencies, is $75,084,176. A board of five other great engineers went over Mr. Menocal's measurements and estimates with great care, and out of abundant caution, and not because of any substantial change in his figures, they added to his estimates another 20 per cent. for contingencies, and so changed his estimate as to make the total cost of the canal ready for service, $87,799,570. It seems that this may be reasonably accepted as the outside possible cost of the canal.

But, if we run up the conjectural cost to $100,000,000, the canal, if built for that sum, must be the most valuable property in the world, of its magnitude. The tonnage, annually, can scarcely fall below that of the Suez Canal. It will gradually exceed that amount. If it is two-thirds as great as that which passes through the St. Mary's Canal on the lakes it will equal 9,000,000 tons. Who does not know that it must be greater than the traffic supplied by so small an area of inland country?

A just estimate would be fixed, confidently, by the most careful and hesitating persons at 9,000,000 tons per annum, to say nothing of income from passengers, of whom swarms will emi-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

grate to the Pacific coast. On this estimate we could place the tolls at the rate of one dollar per ton, and realize $9,000,000 per annum. Take $3,000,000 of this sum for maintenance of the canal, which will not exceed half that sum; $3,000,000 for interest on the bonded debt, and $3,000,000 for the stockholders, and we will have a result that should excite the cupidity of the most grasping speculator. But the true friend of the industrial and commercial people will see in this result a saving to industry and commerce of more than one-half the charges for tonnage that are now paid to the Suez Canal.

If the United States is the owner of 80,000,000 of the 100,000,000 of the stock in this canal, and if it is to cost $100,000,000 to build it, the dividends on that 80,000,000 of stock, employed in a sinking fund and invested in the bonds of the company, would pay the entire cost of construction and the interest on the bonds in less than fifty years.

These are some of the indisputable facts that show that it is a good financial operation, and a duty that concerns the honor, welfare and security of the United States. It is a project worthy to be accomplished as the closing splendor of the nineteenth century. Above all, it will stand as an example to mankind to prove that the great Republic of republics is the best form of political government for securing the welfare of the citizen and the fruits of his liberties. It will, indeed, be the crowning glory of this era that the Nicaragua Canal should be built by the aid, and controlled by the influence, of the United States.

The people who have money will build this canal, if no government takes it in hand. But some other government besides Nicaragua or Costa Rica will build and control it. The people of Europe built the Suez Canal when the profits of such an investment were vaguely conjectural. The French people poured hundreds of millions of francs into the Panama Canal scheme, and would repeat the investment if they had a hope of success. If their money had been honestly expended on the present line of the Nicaragua Canal, it would now be in operation, and we would be vainly endeavoring to get our rights there, as we are now doing with reference to the American railroad at Panama. The people will build this canal if some government does not build it, and they will not be American

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

people. It will cost the canal company $250,000,000 to raise the money to build the canal, and our coastwise and foreign commerce will be taxed on that basis for its use. If we submit to that exaction, without causing a trouble that would spread through the world, it will be a new and dark chapter in our history. The just, wise and safe policy is to prevent such a disaster; to turn aside the temptation to careless indifference, and to prevent danger rather than to take the chances of finding a rough road to our future destiny.

A government that has given far more than $100,000,000 to build trans-continental railroads should not fear to invest money, on an assured basis of profit, in order to give some of the advantages of fair competition in transportation charges to the great body of the industrial classes. Unpleasant scandals did attend the use of the money raised on the credit of the government, in the building of one of these railroads, but corruption was made possible by the absence of governmental control in the Board of Directors. A repetition of that wrong has become impossible. Two of these railroads now owe us more than $100,000,000, and they can and must pay the debt. That money, when it falls into the Treasury, will more than replace all that we will expend in building the Nicaragua Canal, if we should sink every dollar of it. It has done a great work for the people of America and of the world — a work for which we would not be willing to take any conceivable sum of money. Those railroads are our pride, as a people. They are essential parts of our civilization and indispensable factors in our government; but they are becoming too much a burden upon our internal and external commerce. Water transportation through the Isthmus of Darien is to be the efficient and just competitor for trans-continental traffic, and will add immensely to their income, at lower rates of transportation, by the rapid increase of population on the Pacific slope. As we have aided great corporations by building railroads for them, let us now aid the people by building a canal that will make freights cheaper and will enrich the common treasury. If we will, we can use the money due us from the railroads to build the canal.

JOHN T. MORGAN.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

SHALL OUR LAWS BE CODIFIED?

BY FREDERIC R. COUDERT.

SIR EDWARD COKE is said to have been a man of very bad temper and disagreeable manners. His own wife was unable to live with him and left him because of his harsh and overbearing methods; but she has been leniently dealt with because her and his contemporaries concurred in her judgment as to the undesirability of constant companionship with so surly and unpleasant a person. But he was, nevertheless, a very great lawyer, the pillar of English jurisprudence, the foremost man of the Bar, a patriot to whom, according to Lord Campbell, the English-speaking people are mainly indebted for the liberty they now enjoy.

The opinion of such a man on any question that involves the subversion of the old system of English jurisprudence must necessarily be of priceless value. If he could be summoned from the grave and made to testify upon such a subject, he would be listened to with the reverence due to a sage, the confidence due to a proved expert, the submission due to a master. As there is no process known for compelling his attendance, we must perforce look into the monuments of learning that he has left behind him and seek to gather from them the testimony which his silent lips may no longer furnish. A very short search will satisfy us that he would have regarded with abhorrence the attempt to imprison the common law in a dungeon of epigrams and to substitute treacherous and insufficient words for living principles. The justification for this invocation of a great lawyer's authority may be found in brief expressions which aptly condense and illustrate two great and fatal objections to codification of the English common law. "I never knew but one or two questions of common law to puzzle the judges," and again, "If I am asked a question of common law I should be ashamed if I could not immediately answer it; but if I am asked a question of statute law, I should be ashamed to answer it without referring to the statute book."

Here we have indistinct and emphatic language, a striking

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

condemnation of codification. If the written law alone puzzles the judges and the confusion and uncertainty complained of arise mainly from statutes, to what extent will the evil be multiplied, when the old landmarks are swept away and only codes are left to guide the Courts in the administration of justice? And what shall become of our Bar and the litigants, when the lawyers may no longer rely upon their knowledge of principles and rules, based on experience and consecrated by time, but must either rely upon an imperfect memory of statutory verbiage or turn to a compilation, which, at best, is likely to confuse, mislead and vex the student until it has been passed upon and settled by the courts. When it has reached that point, assuming that it ever does, it would indeed require a wise man to tell what has been gained. In either case we must return to judicial interpretation. In the old system that adjudication turns upon principles, in the new one it turns upon words. The lexicon would play a more important part under the latter regime than the former, but what advantage there would be in this it is difficult to see.

The objection to statutes urged by Coke is as strong to-day as it ever was. There is scarcely a judge upon the bench of our higher courts who will not echo his complaint. There is none who will admit that he is not himself familiar with the principles of the common law in their application to the daily concerns of mankind. There is none who has not often labored to extricate meaning, sense or logic from a statute. The volumes of reports prove the truth of this with pathetic but unmistakable reiteration, and rise up in endless succession to warn rash innovators of the peril which they recklessly invoke. The history of the Statute of Frauds alone is eloquent to dissuade men from over-readiness to rely upon statutes. It has been the subject of dissection and investigation in England and America, by the sharpest surgical instruments of both countries, for the last two hundred years, and yet the experience of each day shows that ts capacity for mischief is not exhausted.

It may not be denied that there is about the theory of codification an element of almost irresistible attraction. The thought of formulating the whole body of the law into a brief and perspicuous sentence and of placing it within the easy reach of all except the absolutely illiterate, is well calculated to enlist the

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sympathy of a generous mind. From that to "hanging all the lawyers" there is but one short step in the way of social improvement. If every man is bound to know the law, why not put it into such a form that the obligation may not be ludicrously impossible of performance? The rule is now ironical and cruel at the same time; why not so express the law that any searcher may find it with inexperienced thumb, while he waits for his dinner? Bacon wrote many fine things in these brief but frequently recurring periods. Why should not the humblest artisan ascertain for himself his rights, duties, and obligations, to his State, to his family, and to his fellow-citizens? It would, indeed, be very beautiful—so would the millenium. The stern lessons of experience put their veto on well-meaning projects of this character. Where has a code ever produced these results? Where has any system compatible with freedom been devised to make the lawyer's existence unnecessary? The Bar flourishes, with or without codes, and will flourish so long as Law decides the controversies between men, so long as society does not recognize Force as its chief motor and saving principle.

It may, perhaps, be insisted that there are instances of actual and successful codification that prove, by their very existence and the benefits they have conferred, the futility of objections based upon mere theory. The most eminent of the now living advocates of codification produces in evidence the Ten Commandments and the Constitution of the United States; others are content to point out the Code Napoleon and the German Code as illustrations of the claim that the law may be simplified and improved by condensation into one volume. These assertions are entitled to considerate examination. Experience is, after all, the best teacher and, when it may justly claim success as its ally, needs no reinforcements. Is it true, then, that the history of the past shows us that we may, and how we may, codify our common law?

As to the Decalogue and its effect, as an instance of successful codification, it is not easy to speak without the risk of apparent irreverence. If, as the great mass of God-fearing men believe, the Commandments were proclaimed by a Divine authority the illustration is simply irrelevant. Nothing is impossible to Omnipotence. It is plain that an omniscient and all-powerful Being is not confined by our limitations. No one denies that an admirable scheme of law might be proclaimed and estab-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

lished by inspired prophets. If scepticism, however, should suggest its doubts as to the literal truth of the Divine origin attributed to the Commandments, it might still be argued that the case is not in point. The force and beauty of the Decalogue lie mainly in the fact that it is supposed to emanate from the Divine power. Strip it of its superhuman origin and test it by ordinary rules and you will find a series of prohibitions against wrong-doing, a catalogue of negative precepts that commend themselves to the general sense of civilized mankind, but which can hardly, by their generality, be used as a model for a merely human code. And even then, it might be added, that tomes ponderous and many have been written, as commentaries, by wise and good men to show that it is not always unlawful to kill or to steal, as those words are generally understood.

The Constitution of the United States, on the other hand, may not be likened to a Code of Laws. Our Constitution was and is but a treaty between several sovereign States forbidding many things which the general Government, created by that instrument, would have otherwise been very likely to do. Its adoption was the culmination and crown of a series of successive acts. The first in point of time and importance was the Declaration of Independence; the next the "Articles of Confederation and Perpetual Union Between the States," whereby they severally entered into "a firm league of friendship with each other, for their common defence, the security of their liberties and their mutual and general welfare." Finally, the Constitution was created "to form a *more perfect union*, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare," etc. As a treaty intended to regulate the relations of sovereign States, it is plain that its provisions must be reduced to writing, and the most cursory examination will show that the predominant idea was to concede as little as might be consistent with the general purpose above named, to retain all that might be retained without danger to the common advantage, and to leave no door open to invasion, by the general authority, of the reserved rights of the States. Such an instrument can only be likened to a municipal code by a total disregard of most important differences. It cannot be cited as an instance of successful codification unless we close our eyes to the real and essential character of codification as

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

we understand the expression, viz., the reduction of an already existing system of law into a written and compact form, while the substance of the ancient jurisprudence is preserved. The Constitution of the United States was a novel experiment; it superseded no established system, it removed nothing that had commanded the allegiance of men before its time. A new condition of things sprang into existence when it received its final seal of approval. From the very nature of the case, the Constitution must be reduced to the form of a written instrument.

But even if we are to consider that our Charter may be likened to a codification of existing laws, might we not point by way of warning to the formidable array of volumes in which our great Justices, beginning with Marshall, have sought to explain the meaning of those concise sentences which the founders so carefully devised. John Marshall, the immortal pioneer in this Herculean task, did much to prevent open rebellion by the masterly exposition which he made of the meaning which should be attached to most happily chosen words. But his successors have been struggling, as he did, to extract sound principles of general application from brief sentences, and we are now governed more by what Marshall, Taney, Storey, and other illustrious men *said* that the Constitution *meant*, than by anything that we can ourselves find in the language itself. If such a Constitution expounded by such men still requires deep judicial meditation and hesitating judgments from our most learned jurists, who will venture to say that a new statute, assuming to supersede a system that has grown venerable with ages of service, and assuming to regulate the most important social, domestic, political, commercial relations of men, will be an unqualified success? May not a great and flourishing State, the Empire State of this continent, where justice is administered at least as satisfactorily as it is in any part of the world, pause before it consents to tear down the old temple, for the purpose of building a new one with untried architects on an untried model, with many chances that it may not be superior to the one now in use?

"But," say the codifiers, "look at France and her splendid Code. Ask any intelligent and fairly educated Frenchman on what conditions he would part with it and note the indignant response. The Civil Code has achieved victories, no less renowned in peace than those that first made the victor of Marengo famous. Nay,

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Napoleon himself, warrior as he was, felt that the great glory of his reign was written within the covers of his Code and that he would live by the peaceful triumphs that it wrought when Austerlitz and Jena were forgotten. Upon his greatness as a lawgiver he based his appeal to posterity, and time, thus far, has ratified his claims." The argument is plausible, and as a plea resting upon actual experiment is deserving of consideration.

Assuming, in the first place, that the Code Napoleon has triumphantly answered the expectations of its framers and has proved an efficient agent in the world's progress, it is important to examine into the sources of its existence and the causes of its success. We will readily perceive that there is no just reason to suppose that there is such a similarity between the situation that produced the French Code and that in which we now find ourselves. To admit the imperative necessity of a code for France one hundred years ago does not in the slightest degree prove that the admirable system of our English common law should give way to those who are ready to attempt the duty and to encounter the responsibility of its codification.

When the French Revolution broke out and violently removed the ancient land-marks, France found herself in a singularly confused condition. It is an old saying, none the wiser for being habitually clothed in Latin dress, that the condition of a country is one of wretched servitude where the law is vague and uncertain. If this be true, the condition of the people was indeed deplorable, especially when the central power upon which so much of the system depended was ruthlessly removed and the uncertainty of jurisprudence was no longer mitigated by the supervision and control of despotic power. France was divided into two great principal jurisdictions: one in the north was governed by the *droit coutumier*, the other in the south by the written law. The former was the offshoot and legacy of Germanic invasion; the latter testified to the supremacy of Rome. In addition to these two sources of jurisprudence, the relations of persons and the disposition of lands was to some extent governed by feudal restrictions and practices. In fact, the law founded upon custom or *coutume* was partly made up of common law and partly of feudal law. Nor could it be said that the same *coutume* extended over any considerable extent of country, for each province, nay district, boasted of its own *coutume*

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and administered it all the more tenaciously, because it differed from that which prevailed in the adjoining territory. When the fires of the Revolution were first kindled, there were in France no less than two hundred and sixty *coutumes*. Practically there were two hundred and sixty codes in vigor, to harass the population of the country. The evil was and had been so great that as far back as the time of Louis XI. efforts had been made to codify the law. Colbert took it up and so much progress was made that a Civil Code was promulgated, but this was in reality nothing more than a Code of Procedure. It was only after Bonaparte came into power as Consul that the labor of centuries culminated in the present Code, and thenceforth, for the first time in her history, France was endowed with a national homogeneous system of equal laws.

This necessarily brief and imperfect statement may suffice to show the different situations of France in 1789 and of the State of New York in 1893 relatively to each other. France absolutely required *a* system to wipe out hundreds of conflicting systems of law. Successions were regulated by different rules, according to the districts in which the property was situate. The rights dependent upon marriage contract changed their character as the parties took short journeys from home. The practice of the courts was as multiform as the rights which they were created to enforce. The nation was reduced to such straits that any change, provided it brought unity and simplicity, was sure to prove a blessing. Who will venture to say that there is any ground for comparison between the case thus presented and our own? Admirable as the French system may be, and is in many particulars, I have yet to discover the man of reasonable intelligence and education who believes that the rights of property and of person are not as safe within our borders as in France or any other country governed by the Civil Code. So true is this that the most earnest advocate of codification does not propose to change the law. He only seeks to change its dress. In this would codification with us be unique. Elsewhere it has been invoked, to remedy imperfect legislation and to remove objectionable customs which only the radical remedies of wholesale codification could effect.

It has been conceded above, and indeed it is claimed, that the Code Napoleon has proved to be a great step in advance, perhaps

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

one of the most efficient auxiliaries, of modern European progress. It has at least consecrated the absolute equality of all men before the law. For this alone it deserves honor and respect. But what remains of the argument, so far as it is based on experience, if we should admit that the model code has fallen short of its promise and proved itself a failure? And yet this is precisely what Mr. Austin, one of the most conspicuous defenders of codification (in the abstract) most emphatically proclaims. He does not even undertake to show that the efforts of Napoleon as a law-maker were ineffectual. He starts out to show *why* the French Code turned out to be a failure! Space will not allow the reproduction of his curious arguments in support of so doubtful a proposition; much less any criticism to disprove the value of his strictures. If Mr. Austin were not so serious as well as so eminent an author, we could hardly escape the conclusion that much of his writing upon the subject was done while in a humorous vein. For instance: "No code can be perfect; there should therefore be a *perpetual provision for its amendment, or suggestions from the judges* who are engaged in applying it, and who are in the best of all situations for observing its defects. By this means *the growth of a judiciary law* explanatory of and supplementary to a code cannot be indeed prevented altogether, but it may be kept within a reasonable bulk by being worked into the code itself from time to time"! (Jurisprudence 2, p. 127.)

What a prospect this unfolds to the admiring eye of the seeker after condensation! The only escape from unreasonable bulk lying in the facility to expand the Code! We of New York will not dispute the proposition. We have a melancholy instance in the swelling volumes of our Code of Practice. These have at least been useful to show that the growth of judiciary law and unreasonable bulk in a code might amicably increase and multiply in harmony. Is it easier to regulate the concerns of a State, to define the duties of parent and child, master and servant, landlord and agent, than to provide for the commencement of a suit or the service of a summons? If it is, a civil code may be practicable in our State; but, instructed by the example of France, let us remember that she allowed, notwithstanding the pressure of her necessities, two centuries to intervene between the Practice Code of Colbert and the Civil Code of Napoleon.

F. R. COUDERT.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

NEEDED REFORMS IN THE ARMY.

BY GEN. JOHN GIBBON, U. S. A.

IN A country with as small an army as ours the popular desire is, and ought to be, to have the organization as perfect as is possible and as is consistent with the circumstances of the case, so that when war comes, as it is very sure to do, sooner or later, this small force can be made use of to the greatest possible advantage in leavening, in the shortest time, the much larger armies which the extent of our country will necessitate. Important as this is, so far as concerns what is known as the *line* of the army, it is of far greater importance as regards the *staff*—the several departments which issue orders and instructions and furnish the supplies of all kinds to a military force.

"In time of peace prepare for war," and if in time of peace we follow a system not applicable in time of war, our labor is worse than thrown away; for we not only have to abandon the peace system, but we have to go to work and learn an entirely new one under the most disadvantageous circumstances.

The terms "precedence in command" and "succession in command" are well known in all armies. With active armies in the field there is never any difficulty in acknowledging them or construing them. If the Commanding General of an army is killed or disappears from any cause, the one next in rank steps into his position with all the rights and authority of his predecessor. And if from any cause he absents himself he is bound to transfer his command to the next in rank, for the *law* says that the next "*shall* command." If a colonel at the head of his regiment, or a captain at the head of his company, be killed or wounded, the officer next in rank in the regiment or company takes his place without orders or question. There is no need for

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

orders in the case. The matter is fixed by *law*, which takes precedence of all orders and regulations.

In the case of army commanders the matter is so far modified that the President, when he desires a change, designates the one he desires to succeed to the command, and he can assign a junior to command over the heads of his seniors; but this does not militate against the general rule followed in case of a sudden vacancy in the command or the temporary absence of the commander. The rule governs in all cases until the President is heard from, or "otherwise specially directs."

For the purpose of discipline and general administration of the troops, the country is divided into a number of geographical or military departments, to each one of which the President "assigns" a commander, as he does in the case of armies in the field. These departments are assimilated to armies, and their commanders have essentially the same powers and duties as army commanders. Of course, they are "military" commands, and should be governed by the same rules as apply to all military commands. There are now eight of these departments, each under command of (usually) a general officer. Should, however, this officer drop dead, or from any other cause make a vacancy, the law plainly prescribes who (the next in rank) shall assume the duties and command until the will of the President is made known. So, too, if a department commander leaves the limits of his command, he is bound to notify the next in rank and turn over to him the command. To fail to do this, besides being a violation of the law, has some other disadvantages. It mortifies the next in rank by failing to bestow upon him what the law says he *shall* have, and it *degrades* the commission which he holds from the highest authority in the nation.

It has been suggested that the law may be considered to have been "modified" by the existing system of railroads and telegraphs, but the idea of bestowing upon railroads and telegraphs the power given exclusively *to Congress* can scarcely be seriously entertained in a country with free institutions. It may be urged that to comply with the law is sometimes very inconvenient, the next in rank being perhaps hundreds of miles away. This, however, is an argument which the pettiest violator of law is apt to make use of, and it is *never* any excuse for failing to comply with the demands of the law. Once accustom people, and especially

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

soldiers, to disregard the law in *any* respect, and you open the gate to a disregard of *all* law.

In former days a post commander would never dream of leaving his command without turning it over to the next in rank, or if he did not do it, the next in rank assumed command as a matter of course. So far as the law and customs of service are concerned, a post is different in no respect from a department, and yet a law officer of the government has decided that *personal vresence* is not essential in commanding a military department. In this decision, however, the only law which really applies to the question (Art. of War 122) is ignored. Carry that decision to its logical sequence and it is a fatal blow to all succession in command, post, regiment, or any other, and to proper discipline. This loose method of command, it is stated, was once carried so far that a department commander *absent in Europe* exercised command over American soldiers. Numerous instances are on record where the senior officer has *assumed* command, but in modern times the officer who attempts it does so at his peril. His commission, of course, is in no danger so long as he acts legally, but he may find it is not as strong a piece of parchment as he thought and that it possesses some disadvantages he never before dreamed of. A return to the former custom and a strict conformity to the law is desirable in order to check a fast growing disposition to regard military command as a *personal* attribute, instead of an attribute of the commission, as is the case *in time of war*.

Non-military people will naturally inquire: "Who does exercise command when the *assigned* officer is absent?" The answer is: a staff officer, two, three or four grades in rank below the one designated by law. General Scott used to say: "Nature does not abhor a vacuum half as much as a senior abhors being commanded by his junior." Nowadays this abhorrence is excited but too frequently and to the great detriment of military discipline.

An army should be constituted and conducted on purely business principles and ours, except in part, is not. Commencing at the bottom, the method of making appointments in the Medical Corps and in the Ordnance Department is everything that could be desired. It would be well for the service and for the Corps of Engineers if the same system of appointment were followed in that corps as is pursued in the Ordnance Department. Instead of assigning young officers directly to the corps

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

on graduation from the Academy, they should be placed at first in the line for a tour of duty, that it might be determined whether the practical course in the army confirmed the theoretical judgment of individuals formed at West Point. This course would benefit the corps and the army, as well as the individuals.

When an officer is once assigned to a regiment or corps his promotion takes place in accordance with well-established laws, free from all extraneous influences, with the exception of the examination which takes place before boards to decide as to whether he is fit for promotion. But where *special selections* are made for service in the staff there are, strange to say, no rules whatever for the government of the selections with the one exception of the Ordnance Department. In the vast majority of cases the probabilities are in favor of the selections being made from the one particular interest which should have nothing to do with the organization of an army, if efficiency is desired or aimed at. This is true not only of the selections made for the lowest grades in the staff corps, but for the highest in *all* branches of the service. During the past twenty-five or thirty years there has been but one period of four years where political as well as personal influence has not had an undue share in these selections.

In time of peace the same rules which govern in all other professions and business corporations should prevail in the army. Length of service, capacity and the *record* made by the officer should determine his selection for promotion, and in no other way can we hope for an efficient and capable organization. When two officers are considered as equal in capacity and record, *length of service* should decide the question. In selections for higher grades the rule should be rigid, that where *the senior is competent he should be promoted.* Few out of the military service can form the slightest idea of the fatal blows discipline and efficiency have received by appointments made on any other grounds than those of efficiency and rank. Men naturally strive after those things deemed most conducive to their own interests. If political and personal influence are made the test, officers will become politicians and strive after personal influence. If soldierly qualities are the test, officers will strive to be soldiers deserving of the prizes which *ought* to be the reward of soldierly record.

The proposed rules of selection would remove promotion in the army from all political influence and rid the service from the

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

demoralizing and frequently discreditable scramble for office always presented when one of these selected positions becomes vacant. Such a course as is now followed may be good politics, but it is the worst possible political economy and is fraught with future evils to our little army. Even fools do not place the worst material in the foundations of the houses they build.

But by far the greatest evil which threatens the welfare of our army in the future, is the centralizing tendency of all army administration, which saps discipline, destroys the proper authority of even the highest military men in their own commands, and actually *invites* subordinates to be insubordinate—to disobey the orders of their legal superiors. This tendency has reached such an extent that it bids fair in the near future to concentrate in Washington complete control of all military operations, usurping the determination of the most trivial questions which should be decided in the geographical departments and never be permitted to reach Washington. It deprives all officers, even department commanders, of any proper control over their commands. This has proceeded so far already that the control of all the details of army matters is rapidly passing into the hands of two or three staff departments, these staff departments themselves not being under control of the Commanding General of the Army.

Any attempt to change this condition of affairs is sure to result in the cry that *military* authorities are trying to interfere with the lawful prerogatives of the Secretary of War, whose name and authority is invoked to support all assumptions of these several departments. The result of this is, that officers on the frontier have nothing to do, while the staff officers in Washington are overwhelmed with a perfect deluge of business impossible for them to perform properly, and which has really to be done by irresponsible clerks. In individual cases, when the staff officer is conscientious and zealous he is worked to death. In other cases he simply signs his name to a multitude of papers prepared for him by his numerous clerks. He has no time to do much else.

One of the worst features of this tendency towards centralization is, that it is rapidly transforming our army into a mere *paper* machine. Requisitions, returns, reports, Board proceedings, in duplicate, triplicate and quadruplicate, block army administration in every direction, and accumulate papers to such an extent that the transportation from station to station of the retained

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

papers in the Quartermaster's Department alone has become a tax of no insignificant amount on the government, whilst the shelves of the War Department are clogged with them. Of all useless things in the world a *paper* soldier is the most useless.

In every properly organized army, if a subordinate commander requires mules, horses, wagons, guns, ammunition, provisions, or anything else, the Commanding General, if he approves, orders the articles furnished. By no other plan could the efficiency of the army be assured. In our army, on the contrary, these questions, or most of them, are decided by the heads of staff departments in Washington. The commander seldom has a chance to express even an opinion upon the advisability of supplying the articles called for by his subordinates. So far has this system gone that the tables in the War Department are loaded down with papers relating to questions and articles of supplies which never should have left the geographical departments whence they came and where the questions involved could have been settled more satisfactorily and for the better interests of the service, to say nothing of delays in the matter.

Business men would be both amused and surprised to learn the way in which some insignificant article required at a distant frontier post is supplied. A piece of machinery used in supplying the garrison with water, or any other article of vital importance at a post, but insignificant in Washington, is required out at some post in Montana. A requisition is made for it. Ths goes to St. Paul (Department Headquarters); from there it comes to Washington, and after going through the regular red tape course, it is decided by some subordinate in the Quartermaster General's office that the article can be purchased by the Depot Quartermaster at St. Paul, to which point the requisition goes back with the order for the purchase. It is purchased then and goes out to Montana, where the post has possibly been burnt down for the want of a water supply.

It is true there is an "emergency" clause in the law, under which such articles can be purchased in open market, or on short notice, but this requires the issuance of an order from somebody, which must afterwards be approved by somebody else in Washington. I was once travelling through the wilds of Oregon with a small escort and an army wagon, when one of the tires came off. Some years ago there would have been no difficulty about resort-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ing to the nearest blacksmith shop for the necessary repairs, for the Regulations covered all such cases, but the commander of the escort dared not settle it in that way now, and had to have a written order declaring it an emergency case.

By the Constitution the power to make rules for the government and regulation of the land and naval forces is vested in Congress, but for many years the power to make regulations for the army has been left to the Executive, Congress limiting itself to the enactment of the *rules* as laid down in the Articles of War. Regulations for the government of an army *ought* to be of such a character as to form a sure guide for all officers and soldiers—a rudder by which the military ship could always be steered.

The Regulations now in existence form no guide at all, for almost immediately after they were issued the War Department commenced to make, by orders or circulars, all sorts of modifications to this, that, or the other paragraph, until these have become so numerous that no one *can* know what the present regulation is on many points unless he is fortunate enough to possess an industrious and capable clerk who keeps his copy of the Regulations posted as he would a day-book. A regulation, to be any guide at all, ought to be a sure one, and if so many changes are necessary a much more useful publication for the army would be a yearly edition of the Regulations rather than a yearly Register.

I had it impressed upon my mind very early in my military life that *laws* and regulations were two distinct things, differing very essentially in power and authority; that the laws of Congress were things which, under no circumstances, could with propriety be disregarded or set aside, and that regulations, whilst made to be observed, possessed no such sacred character. For many years military courts have, with more or less strictness, adhered to this distinction, insisting that justice must be duly administered "without partiality, favor or affection, *according to the provisions of the Rules and Articles for the Government of the Armies of the United States*" (Articles of War), and have refused to try charges based on a *violation* of the *Regulations*.

If exceptions to this rule have now and then occurred, I think it may be directly traced to the degradation inflicted upon the highest court in the military service whereby the highest judicial prerogatives are imposed upon a less number of officers than the law declares a general court martial *shall* consist of. It is true that

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the law leaves the determination of this question with the convening authority, but the question is restricted with the provision that the full number of thirteen cannot be convened "without manifest injury to the service." Where courts of less than thirteen are ordered, the convening authority inserts a clause that "no greater number can be convened without manifest injury to the service," when it is plainly "*manifest*" to every one connected with the service that this assertion is not true.

How is it possible to have anything like uniform or equal justice administered in an army where five or seven young officers, sometimes all stationed at the same post, are invested with all the powers (including that of life itself) bestowed upon the *Supreme* Court of the army of thirteen members? A return to the old custom of detailing full courts of thirteen members, and even sometimes detailing *alternates* to take the place of any who might not be able to attend, is desirable.

Of late years a great deal has been heard of the desertion of enlisted men and the fraudulent duplication of pay accounts by officers. By wise legislation and suitable orders the number of deserters has been very materially reduced in the last few years and will doubtless be still more reduced when these laws and orders have had time time to produce their effects.

No enlisted man ever draws his pay twice, unless by the blunder of both his commander and the paymaster. No one ever hears of an officer of the Navy duplicating his pay account. There must be some good reason for this. There is. *He has no pay accounts to duplicate,* and there is no necessity for army officers to have them. A naval officer draws his pay on a pay-roll similar to the muster and pay-roll on which the men of a company in the army are paid. He simply *receipts* for his pay either on the pay-roll, or, if this is beyond his reach, on a separate slip which is afterwards attached to the roll. The receipt is signed only when the pay is due, and it is not negotiable like our pay account. It is better to put it out of the power of the few disposed to commit crime, than to create a temptation to fraud.

All of these reforms are deemed necessary for the welfare of the army and they *can* all be brought about by the action of the Secretary of War without additional legislation.

JOHN GIBBON.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

WHY IMMIGRATION SHOULD NOT BE SUSPENDED.

BY SENATOR HENRY C. HANSBROUGH, OF NORTH DAKOTA.

IMMIGRATION and quarantine are too closely allied, especially at this time, to admit of their discussion as separate questions. A seaboard quarantine along the Atlantic coast in the United States will not stand as a bar to the entrance of contagious or infectious diseases over the Canadian or Mexican borders. Nor will international plagues be kept out by a complete suspension of immigration unless we have the coöperation of all the governments on the Western Hemisphere, and even then I doubt its efficacy, for the European traveller, or the crews of vessels whose entrance to our ports cannot well be prohibited, would sow the deadly seed quite as readily and effectually as would the ragged immigrant.

If we say to the intending emigrant, "You shall not come to this country through the ports within our jurisdiction," he will easily find a convenient and, during the summer season, a more agreeable entrance through the Gulf of St. Lawrence, and thence via lake and rail to western points in the Dominion, whence he may enter the United States by as many different cross-roads as there are iron posts to mark the miles of the boundary line. Indeed, he need not go so far as the West; he may come in, with equal ease, from Montreal or Toronto. I do not understand that it is the purpose of those who are advocating suspension to exclude immigrants who may come from or through Canada and Mexico. To cut off immigration from these sources, in case of suspension at the seaboard, would require the services of a mounted patrol equal in numbers to our regular army.

It is unreasonable to suppose that the vessels now engaged in

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

carrying immigrants would go out of business in case of the passage of a suspension act. The companies owning them would continue to seek dividends upon their investments, and many of their ships would carry immigrants to the ports north of us. These companies, which are said to be making rich profits, would not tie up their vessels for a year so long as they could land immigrants in the depots of a great railway company whose lines, for a distance of three thousand miles, skirt the borders of the very country in which Europe's millions are seeking homes. The distance from Hamburg to Halifax is less than from Hamburg to New York by eight hundred miles, and less to Quebec by five hundred miles.

It is not at all probable that the Canadian Pacific road would refuse to carry immigrants to Western points on account of the prevailing desire in this country that the cholera be kept out of Chicago! It would be poor policy to divert the stream of immigration, or any part of it, from the customary channels and bid it enter the United States at any point along the six thousand miles of American border line, exposing the people who live contiguous thereto, as well as those in the interior of the country, to the danger of contact with imported diseases. So that if Chicago catches the cholera this year, the disease is more likely to make its entrance by way of Winnipeg or the great lake ports, should immigration be suspended by act of Congress, than it would be to break through the lines of an effective federal quarantine if immigration is not suspended. Advocates of a federal quarantine realize the consequences of a visitation of international plagues, and feel that the united powers of all the States should be exerted to check and control them at the very threshold of their entrance. It is unjust to the taxpayers of New York, Pennsylvania or Maryland to say that they shall pay the expenses of keeping the cholera out of Chicago, or that the people of Louisiana or Texas shall be assessed to prevent the spread of yellow fever to the adjoining State of Arkansas. These are matters that concern the people of the entire country, and the burden should be borne by the general government.

On the other hand, it is contended that a large revenue is derived by certain States as a result of State control—an amount, in some instances, far in excess of the State's quarantine expenses. If this is true it simply adds another argument, and a strong

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

one, in favor of federal control. The "power to regulate commerce with foreign nations" rests exclusively in Congress. Then who will attempt to maintain that a State should be permitted to levy tribute upon "foreign commerce" for the special benefit of the State? Fees derived from the regulation of foreign commerce belong to the people of the whole country, and every dollar now collected from the vessel owners in our harbors by State officials should be collected by federal officials and should go into the federal treasury for the maintenance of an efficient and well-equipped federal quarantine.

Think of the inconsistency of a proposition in favor of the general government collecting a fifty-cent tax from the individual immigrant while the State government takes the fees derived from the inspection of the immigrant vessel. It may fairly be presumed that the only thing that prevents the State from "going the government one better" in the matter of head tax is the selfish fear that the vessel owners would thereafter land their cargoes at rival ports.

The announcement that cholera has made its appearance anywhere within the bounds of civilization is cause for universal dread; when its germs are discovered in the remotest corner of our own country, there is consternation throughout the land. The same may be said with respect to yellow fever, although the alarm over this disease is not so great as formerly. It is a practical truth, therefore, to say that cholera and yellow fever are of national importance, and it is little less than a crime for a great political party, soon to assume responsibility for the sole management of the government, to permit the ancient delusion of State sovereignty to jeopardize the health and life of the people.

It is not denied that the power to deal with cholera and kindred diseases that come with foreign commerce is vested in the Federal Government. The eighth section of the very first article of the Constitution of the United States provides that "Congress shall have power to regulate commerce with foreign nations and among the several States and with the Indian tribes." Under this clause of the Constitution the present Congress appropriated about $22,000,000 to remove obstructions from and otherwise improve our rivers and harbors, and each preceding Congress, since the foundation of the Government, has made appropriations for

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

similar purposes. The burdens of these vast improvements are borne by the people at large, while the immediate benefits are enjoyed almost exclusively by certain States.

Congress should not hesitate to grant the Secretary of the Treasury all necessary authority to negotiate with the States owning them for the control and use of such quarantine institutions and paraphernalia as might be necessary to cope with an outbreak of any serious epidemic threatening the good health of the people and the stability of the country's commerce. He should be further authorized to engage local professional or other help for the purpose of exercising a most complete surveillance over all suspects wherever located. With powers of this character, the Secretary, fortified by suitable rules and regulations, could organize within a few hours, from New York to San Francisco and from New Orleans to Pembina, a quarantine that would be absolutely invincible, and under the operations of which cholera would not only be completely hemmed in, but would disappear as rapidly as an ordinary epidemic of small-pox or diphtheria under State or municipal management. With a law upon the statute books authorizing a quarantine of this kind, and with the power vested in the President to temporarily suspend immigration from any foreign port where cholera or any other dangerous disease might be raging, a law authorizing a total suspension of immigration for any length of time whatever would be wholly unnecessary and unwarranted.

The patient, delving European has been the fulcrum and American brains and enterprise the lever of our great progress. If we hope to continue our marvellous development we must not turn the immigrant away. He is a necessary part of the human machinery that causes the commercial and financial world to revolve in its daily orbit. The place that he is content to occupy in the trenches cannot be filled by the native American, who has moved up to a higher plane and to more congenial employment. The versatile, wide-awake Irishmen, the sturdy, stalwart Scandinavians, the frugal, persevering Germans, who are among the best of our immigrants, furnish the basis of a high order of citizenship; they are the substratum of society. The immigrant built our railroads and opened our mines, and now his children, advancing with the general progress, are teachers in the public schools and practising the skilled professions in the cities and

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

villages, while his grandchildren are foremost among scientists and rank high as authors and statesmen.

There is ample room in the United States for 500,000,000 of people. By the time our population shall have reached one-fourth that number the northern boundaries of the Union will have been extended to the south coast of Greenland. Shall we for a single moment turn back the tide of willing workers who are to level and tunnel the mountains and subdue the forests? Are we prepared to go on with the great enterprises even now under way without the help of the plodding foreigner whose capital is his muscle and his pick and shovel?

It seems to me that our only concern in regard to immigration should be as to its character. We do not want Europe's criminals or paupers. We should seek to raise the character of our immigrants and not to reduce their numbers, and in this regard the Act of 1891 has borne some good fruit.* During the past year about three thousand immigrants belonging to what is known as the prohibited classes were discovered and returned to the countries whence they came. It is within reason to say that fully 10,000 were admitted who would find it difficult to furnish a satisfactory certificate of character if put to the test.

There is but one way to separate the good and indifferent from the very bad and unwelcome classes, and that is by a well-digested plan of consular supervision and inspection. Congress should give the Secretary of State a wide range of power in this respect. The time to make selections in Europe for future citizens of the United States is when intending emigrants are about to embark for this country. If we await their arrival here there will be great uncertainty about the success of the sifting process.

When one of our own people desires to take advantage of the homestead law, for instance, the applicant is obliged to enter into a binding agreement with respect to citizenship, his future inten-

* Speaking of the operations of the law the Commissioner of Immigration in his recent report says: "The distressed condition of labor throughout Europe tends to increase emigration to America. The number of landings would have increased enormously but for the restrictive features of the law adopted March 3, 1891. Steamship agents report their refusal to sell tickets to 50,000 applicants for emigrant passage. Of the thousands who were deterred from consulting ship agents by reason of the prohibitive features of the law it is not possible to estimate. It is evident that the law has exercised a wholesome and deterrent effect upon immigration. The character of the immigrants arriving during the past year is greatly superior to that of many previous years."

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tions, etc., and to fortify himself with the testimony of three reputable witnesses who become morally responsible for his conduct. Would it be too great a hardship upon the foreigner if we require him to take an oath before our consul or consular agent as to his character, good intentions, etc., and have that oath duly attested by two reputable witnesses who know him? Is it too much to say that he shall also be able to read and write his own language?

The law, as it now stands, prohibits the landing of all paupers, and of all persons who are likely to become a public charge, all idiots and insane persons; persons suffering from a loathsome or dangerous contagious disease; persons who have been convicted of a felony or misdemeanor involving moral turpitude; polygamists; any person whose ticket of passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown on special inquiry that such person does not belong to one of the excluded classes; also, all contract laborers. How much better for the immigrant, after landing, if the emigrant could read his title clear before sailing?

As is stated in the report of the Commissioner of Immigration, the character of the Europeans coming to this country for homes during the past year shows a decided improvement over previous years. There are other encouraging signs worthy of note. The general belief that immigrants are not immediate contributors to the wealth of the country, but bring with them only the rags upon their backs, is erroneous. As an example: For the last half of the fiscal year ending June 30, 1892, the 152,360 immigrants over twenty years of age who arrived at the port of New York brought with them $3,060,908.05, or $20.09 each. The adult French immigrants brought an average of $55.67; the Swiss are next highest in the list, the Welsh third, and the Germans fourth. Hungary, Italy, and Poland are lowest, showing an average of $11.75 each adult. Strange as it may seem when we remember the miserable appearance of the Russian immigrants, the figures show that they brought $22.10 per (adult) capita.

But the strong, honest healthy immigrant brings more than the paltry dollars in his pocket. He brings value difficult to estimate. In a book published in 1870 by Frederick Knapp, then Commissioner of Immigration of the State of New York, the aver-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

age economic value of each immigrant is given at $1,125.* Norwegians who come here have very little money, but they are the least illiterate of any of our immigrants, and experience shows that for industry and frugality they are unexcelled.

Our best immigrants are those who bring their families with them, and, when they have earned sufficient money, send for their relatives. It is interesting to study the official figures† in this respect, for we discover in them the motive of the immigrant, and when we find his motive we may judge of his worth to the community. Of the 51,383 Irish who came during the past fiscal year, 25,684 were females. There were 119,168 Germans, of whom 52,271 were females. Italy sent 61,631 in all, only

* What is the economic value, says Mr. Knapp, of each immigrant to the country of his adoption? We are perfectly familiar with the estimates which, during the existence of slavery, were made of the value of negroes. A good field hand was considered to be worth $1,200 and over; a good cook was valued higher; and a seamstress or housekeeper was, in some cases, held at even $1,500 or $2,000. In order to obtain a proper idea of the importance of immigration to the United States, we must endeavor to capitalize, so to speak, the addition to the natural and intellectual resources of the country represented by each immigrant.

Dr. Engel computes the cost of raising a manual laborer in Germany at 40 thalers a year for the first five years of his life; at 50 thalers for the next five years, and at 60 thalers from the eleventh to the fifteenth year, thus arriving at an average of 50 thalers per year, or 750 thalers in all. From my knowledge of German life I consider this estimate as correct as it can be, and assuming that in this country subsistence costs about twice as much as in Germany, I do not think I shall be far from the truth in doubling Engel's estimates, and in assuming the expense of bringing up an American farmer or unskilled laborer for the first fifteen years of his life to average 100 thalers per year, or a total of 1,500 thalers, equal to about $1,500 currency. Following Dr. Engel's estimate, an American girl will be found to cost only about half of that, or $750, for the reason that she becomes useful to the household from an earlier age. Allowance must be made, it is true, for the fact that about one-fifth of the immigrants are less than fifteen years old; but this is fully balanced by the great preponderance of men and women and by thousands who represent the highest order of skilled labor. Hence, I feel safe in assuming the capital value of each male and female immigrant to be $1,500 and $750 respectively for every person of either sex, making an average for both of $1,125.

† In the following table will appear the number and per cent. of immigrants of each sex, from the leading countries of Europe, arriving from 1881 to 1889, inclusive.

Country from which arrived.	Males.	Per cent. males of total.	Females.	Per cent. females of total.	Total.
Germany	836,290	57.6	616,680	42.4	1,452,970
Ireland	334,229	51.0	321,253	49.0	655,482
England	395,273	61.3	249,407	38.7	644,680
Sweden and Norway	346,862	61.0	221,500	39.0	568,362
Italy	243,923	79.4	63,386	20.6	307,309
Russia, including Poland	174,481	65.8	90,607	34.2	265,088
Austria	142,221	62.9	83,817	37.1	226,038
Hungary	94,243	73.8	33,438	26.2	127,681
Scotland	92,252	61.6	57,617	38.4	149,869

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

14,232 of whom were females. These figures by contrast conclusively show the necessity for extraordinary care on the part of the Government in making selections of those who are to people this country. The immigrant who brings his wife comes to stay. He assimilates rapidly, and his offspring make good Americans.

That Congress has the right to pass laws for the suspension of immigration, and that such laws would not be in contravention of treaty obligations, will scarcely admit of dispute, but that the enactment of a measure of this character would be in the interest of sound public policy may be very seriously questioned.

H. C. HANSBROUGH.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE HOPE OF A HOME.

BY ERASTUS WIMAN.

IN THE great cities of this mighty nation of forty nations, where there ought to be plenty of room and plenty of prosperity, the proportion of homes owned by their occupants varies greatly. In the newer and smaller cities the proportion of individual proprietorship greatly exceeds that which prevails in the older and larger cities, with the single exception of Philadelphia, which has become proverbial as a City of Homes. The forces that have been at work in these newer cities, and in Philadelphia, in the process of home-getting, it is important to discuss, in order that they may be more generally understood and more generally applied, so that a greater number may be blessed with that most hopeful of hopes, the hope of a home.

It shows the slow growth in economic science, as compared with progress in other departments of intellectual activity, that there has been so little attention given by writers and financiers to the possible cessation or material reduction of rent. The universality of rent payment by the class least able to bear its burden is a reflection at once upon the philanthropy and financial acumen of the age. For there is no tax more onerous on labor or employment than this monthly exaction for the privilege of shelter, and nothing so destructive of thrift as the unceasing demand for tribute for a place in which to eat and sleep, or in which to lodge the belongings of the great army of wage-earners. The Indian in the forest may own his tepee, the Arab in the desert his tent, but in large aggregations of humanity, great groups of the civilized sons of men have not where to lay their heads, except at a cost that keeps them forever slaves to this first charge upon all their efforts.

Certainly, of all cities on this continent, New York is the most exaggerated specimen of failure in the matter of homes for the class on whom, to a greater degree than any other, its prosperity depends. The individual proprietorship of homes by the skilled

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

workmen or laboring class in New York is exceedingly small, and even among the class supposed to be more liberally compensated, such as clerks, salesmen, operators, and the host of men and women who by brain and hand wrest a living from the world, the number who own homes of their own in the metropolis is very limited.

A recent census report shows that there are 81,000 houses in New York occupied by a number of families so great as to imply that there are nearly four families (3.82) for every house in the metropolis. When it is recalled that there are thousands of beautiful homes in New York occupied each by one family only, that miles of avenues and streets are lined with houses each individually owned and occupied by one family group, it will be realized to what extent in other parts of the city crowding occurs, when to accommodate an average of nearly four families to each house the remaining houses only are available. Comparing the condition of New York with Philadelphia the difference is most marked. In Philadelphia the average number of families to each house is one family and one-tenth, as against three families and over three-quarters in New York for each house. In New York the average for each house is 19 people, while in Philadelphia the average is not 6 people per house. The death rate tells the rest. In New York it is 28 in every thousand ; in Philadelphia 22 per thousand. While New York has 19 people to each house, London has only seven, with a death rate three per cent. lower than New York.

The extent of the crowding in New York is made painfully apparent by the statement of the national census, which shows that out of a population of 1,600,000, no less a number than 1,200,000 live in apartments, flats, and tenements. Still further is this confirmed by the sanitary census made by the police in September last, in which it was found that there were herded in what the Board of Health designates as the "Tenement District" no less than 276,000 families! This number, exceeding a quarter of a million families, averaging five persons in each, is so great as to excite surprise that such a condition can exist in the chief city of the new world, where conditions of civilization, as illustrated by the character and number of homes, ought to have their most perfect exemplification. But, alas! the facts as presented in official reports, in the death rate, and in the personal observations of men and women who take a deep interest in the condition of human kind in the metropolis, show a state of

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

density full of danger, in which the indications towards improvement are few and far between.

But not to New York alone is confined the disposition towards density, but it exists in Boston, in Baltimore, in Pittsburg, and numerous other cities. Indeed, in almost every locality is there need for the encouragement of home building. Hence the desirability of considering the possibility of assisting an expansion into more commodious quarters by suburban development on the one hand, and, on the other, by the erection in the cities themselves of modern apartment-houses ten and twelve stories high, which shall be *owned* by the parties living in them. How this best can be done is shown by the experience in Philadelphia principally, and by numerous imitators in various parts of the country in the operations of Building-Loan Associations.

It is not improbable that the reader, if he or she has not already mastered the principles that underlie these simple organizations, will stop at this point and proceed no further. The disinclination to get down into detail is universal, and it is especially difficult to elicit attention to the dry details of what seems to be a complex plan of finance. But when the reader is told that there are not a dozen financial magnates on Wall Street that have yet comprehended this scheme of home-getting, though it is known to hundreds of thousands of plain people who know nothing of Wall Street, perhaps interest will be sufficiently excited to pursue the subject further. Perhaps if the reader also understands that more real, substantial good has been brought about by the operations of the simple workingmen who have promoted these societies for home-getting than has been achieved by all the operators on Wall Street, a desire may be evinced to understand the simple plan by which so much has been accomplished, so little lost, and a vast permanent benefit to thousands achieved.

The general idea of Building-Loan Associations is hardly conveyed by the name by which they are designated. They are simply societies for saving, with the accumulations sacredly dedicated to the payment for homes solely for members of the society. Any one who can save one dollar and a half a month is eligible for membership. Any group, however insignificant or remote, can form a society. The only thing necessary is a trusty treasurer, who shall safely hold the combined monthly savings of the

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

members until enough is accumulated to build a home. Then the accumulations are loaned, either by auction or by lot, or by universal choice, to one of the members, to be paid out, not to the member, but to the builder of the house as it progresses, or in one sum to the owner of the house if it is completed and ready for transfer to the member. The society takes a mortgage for the amount advanced, which mortgage will be liquidated by the member paying up his monthly instalments, he having subscribed for a sufficient amount of the stock of the society to pay the mortgage in a given period, which generally averages nine years. The member enters into possession, pays a little more than rent, while his payments are towards a purchase and not towards rent. At the end of nine years, if he were a tenant he would have a bundle of landlord's receipts, and be no better off than at the start. If he is a purchaser, and every month pays his dues and interest, at the end of nine years he has a deed, free and clear, to his own home.

In the meantime, this member's payments of principal and interest into the society, in liquidation of his debt, are reloaned to another member, which, with continued payments of others who have bought homes, and the savings of those who need not buy them, form a fund from which a steady flow of homes are being created. It is a never-ceasing stream of payments and repayments, of interest, and of savings, fed by a thousand rivulets, all converging to one point, and all ending in the blessing of a home. It is a diversion of the enormous volume of rental into an equally enormous volume of purchase, with this difference, that the purchase money is again and again performing the same work, and fulfilling the highest and noblest purpose which it is possible for thrift to fulfil, the creation of homes.

It may be alleged that in borrowing money at six per cent. with which to build a home, the poor man pays as much in interest as tenements yield, and that the added instalment of principal, which he monthly has to pay, unduly taxes him. In reply to this it can be urged that, while six per cent. is a profit that landlords would generally be glad to be secure in, the depreciation of property by tenants is much greater than that which is likely to take place on houses owned by their occupants. Indeed, the general result has been that in well-chosen suburbs an appreciation of value has taken place through the community of building which such a

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

society for saving renders possible. Thus the home-builder gets the advantage of the "unearned increment," which otherwise would be entirely denied him.

It should also be borne in mind that the six per cent. interest paid by the borrower he practically pays to himself, in direct proportion to his holdings of stock in the society. True, he pays six per cent., and with the premium which is demanded for the money, and other charges, it looks like eight per cent. But, as a matter of fact, so full of advantage is the constant compounding of interest from monthly payments of both principal and interest that as a rule the operations of the society yield him a sufficient profit to reduce the average amount of his interest charges to four and a half per cent. Thus he borrows at the lowest possible rate on mortgages and gets the largest possible rate consistent with safety on the investment of his savings. To those members of the society who do not build, or do not need to borrow, the return is rarely less than eight per cent. To lend money at four and a half per cent. and to pay dividends at the rate of eight per cent. is an operation in finance to which even Wall Street is a stranger!

One element of weakness seemed to exist in the plan pursued by Building-Loan Associations, and that was that in the event of the death of the borrowing member his payments on his stock might cease. This would result in the foreclosure of the mortgage and the loss of the home to the stricken family, thus sweeping away the savings of years, except so far as an equity would be realized. Against the dread contingeney of death and loss, the writer of this article has had the happiness of making a suggestion that has not only been universally approved, but successfully applied. The suggestion is that Building-Loan Associations, on application from borrowing members, may insure the lives of these in some first-class insurance company for a limited term, for the amount of the unpaid instalments due on the house. The payments for this insurance being divided into monthly sums are very small, and are made simultaneously with the principal and interest. As the instalments reduce the debt on the home, the insurance risk equally diminishes, and the cost of it declines, so that, towards the end, it is almost infinitesimal. Meantime the safety obtained improves the security of the loan to the society, and, above all, makes the possession of the home certain to the family. If the bread-winner lives he pays by his instalments for it; if he dies

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

it is paid for by the insurance company, so, whether living or dying, the home is secure. The Travellers' Life Insurance Company, of Hartford, Conn., having early apprehended the possibilities of embodying the element of safety with the element of thrift in the gradual purchase of homes, has provided a policy that exactly meets the necessities of the case, and has thus afforded a facility of great value in the securing of a home.

It is not for the investments of the well-to-do that these savings-societies exist. It is for the infinitely vaster sum which it is possible to glean from the savings of the great wage-earning class, which in this country possesses a saving power of immense force. It is for the purpose of encouraging not only saving in itself, but of begetting an added force in its periodicity or regularity which a monthly undertaking to save any given sum implies. Only about every fifth individual is of an economical turn of mind; it is important to cultivate the virtue of thrift in the other four. In order to do so the facility afforded by the Building-Loan Associations presents itself and its discipline of regularity by demanding a monthly contribution to its coffers. This periodicity has a great force, and as soon as the expenditures of any considerable number in a community, in a workshop, in a church, in a society, or in an organization of any kind, are so arranged as to allow regular monthly contributions towards these savings-societies, it will be seen that the rivulets soon become rivers, and rivers soon become oceans in amount and influence.

The rivulets of savings from the individuals forming the great army of depositors in the savings-banks of New York city illustrate what enormous aggregations may be reached when it is stated that these deposits now reach the sum of $375,000,000. This 375 millions, deposited in small sums in the dozen savings-banks of one city, is not the property of the rich, nor is it the property of the poor. It is owned by the fourth or fifth member of the great middle class of toilers and workers, and is a monument to the virtue of thrift, of which New York city may be more proud than of any other monument it contains.

But attention is drawn to the fact that of this vast sum not a dollar can be, or is likely to be, used for the purpose of erecting homes for the very class who own the money, or those who mostly need them. The law and the policy by which the savings-banks are regulated make it impossible for them to make advances to

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the builders of the small homes, while the prejudice and density of the ignorance of savings-bank officials as to the possible element of safety, profit, and beneficence contained in the principles underlying the Building-Loan Associations, make any change at present impossible. Time, and a public acquaintance with the possibilities of these principles, may bring about such an understanding of them, and such an appreciation of them, that a perfect revolution will be rendered possible, even by the aid of the savings-banks themselves, in the economic conditions regarding rental and home-buying which at present prevail.

This revolution might first find its field in the diversion of the savings of the working-class towards the creation of great edifices in the city of tenements for their occupancy, and which they themselves should own. This ownership might be in the shape of certificates of shares in the corporation which erects the building, in proportion to their contributions or savings, and which could be as readily negotiated or converted into cash as any deposits in savings-banks, or as the deeds of a house and lot. If certificates of shares were undesirable and a title in fee were thought better, even this form of proprietorship could be secured, prevailing as it already does in some few flats or apartment-houses owned in New York. The dividends on the total rental received from the building would, of course, amount to the sum paid by each tenant; so that, the investment once completed, the tenant would sit free of rent, and thus realize the full advantage of years of saving and judicious investment. If there is any safer investment than New York first-class tenement property, modernized and rendered fireproof, inhabited by its own owners, earning liberal wages and on the high road to independence, it is difficult to find it. If there is a more profitable way in which to invest money than to save it and put it into homes for those who can as surely pay for them as they can pay for their bread and butter, it is impossible to find it in these days of plethora and phenomenal accumulations of money.

An accumulation of 375 millions in the savings banks by the working people of New York on the one hand, and a census of homes on the other which shows 276,000 families in tenement houses as they now exist within a stone's throw of these banks, indicate a misdirection of finance that needs reformation.

But leaving these beneficent savings-banks to work out

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

their useful mission, it is submitted that the experience of other cities, and the perfect application of the principles of Building-Loan Associations, call for a more general understanding of their beneficence, profit, and safety by the public. This experience and this perfection of plan demand also a broader application of these ideas in remedying the difficulties and disabilities under which New York labors in the housing of her skilled workmen and her great laboring class. Without some great change in this respect, her future as a commercial and manufacturing centre is less secure than even her greatest advocates suppose. The certainty of increase in her population to dimensions of another million, within the lifetime of children now living, makes it imperative that a change should take place in the provision for those on whom her prosperity and supremacy depend.

Enlarged areas by amalgamating with Brooklyn, perfect communication with that section of the metropolis, and its expansion so as to include all the space between the East River and the sea, will be a relief of great moment. Equally, the inclusion of Staten Island on the south, with its magnificent water front and lovely interior, and, still further, the acquisition of the remainder of Westchester County on the north, open up a vista for homes extremely attractive. But, to procure these, the capital must be provided and the machinery set in motion, and in no way can that be more readily done than in the promotion of the operations of Building-Loan Associations by the public-spirited citizens of the metropolis. To achieve this, let there be an organization formed to be called The Society for the Encouragement of Thrift, whose sole purpose shall be the creation, the encouragement, and the oversight of Building-Loan Associations.

All other localities in this fair land, be they large or small, are intensely interested in the question of home-getting. No movement is more productive of the noblest and best efforts of human kind, and there is no greater safety for the republic than is founded on the universality of homes owned by the working people.

ERASTUS WIMAN.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

EUROPE AT THE WORLD'S FAIR.

I. THE BRITISH SECTION.

BY SIR HENRY TRUEMAN WOOD, SECRETARY TO THE BRITISH COMMISSION.

IT HAS generally been the practice of the British Government in the case of important International Exhibitions to appoint a Royal Commission for the management of its Section. Such commissions are usually formed of a number of distinguished persons, and, in many cases, they have been under the presidency of the Prince of Wales.

These Exhibition Commissions have not taken a very active part in the organization, or usually held many meetings, all the executive work being left to the secretary, and their duties being confined to a nominal supervision, but they have always been held responsible for the proper discharge of the work and their authority and influence have naturally proved valuable.

At Paris in 1867 the post of secretary was held by Sir Henry Cole; at Vienna in 1874, and at Paris in 1878, it was occupied by Sir Philip Cunliffe-Owen. On both the latter occasions the Prince of Wales, as president, took a very active part in the organization, and the great success achieved by the British Section in 1878 was, to a large extent, due to this cause, and also to the able administration of Sir Philip Cunliffe-Owen.

This plan was not adopted at the Centennial Exhibition in Philadelphia. A Departmental Commission was then appointed by the Science and Art Department, consisting of two Commissioners, Sir Herbert Sandford and Mr. Archer, who undertook and carried out satisfactorily all the details of the administration.

As the British Government declined to take any part in the Paris Exhibition of 1889, a private committee was formed, under the presidency of the Lord Mayor of London, and by this body

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the duties usually belonging to a Royal Commission were satisfactorily performed. The administration was of necessity economical, but I think none the less efficient.

When, in March 1891, the American Minister at the Court of St. James invited the British Government to take part in the World's Fair, Lord Salisbury at once replied that a Royal Commission should be appointed for the purpose. No steps, however, were taken in the matter for some time, and eventually the Prime Minister advised Her Majesty, instead of appointing a Commission of the ordinary character, to nominate the Council of the Society of Arts a Royal Commission for the exhibition.

This Society, the oldest of its sort in the world, was founded in 1754 for the purpose of encouraging the Arts, Manufactures and Commerce of the British kingdom and its dependencies, including at that time the territories which are now the United States of America. Many articles in the early transactions of the Society are devoted to the productions of "His Majesty's Colonies and Plantations in North America," and in one of the first lists of its members occurs the name of Benjamin Franklin.

The Society has a good claim to be considered actually the originator of exhibitions. It is a question whether there ever was any exhibition before that of "Agricultural Implements and Other Machines" held in 1761 at the Society of Arts. It was in the Society that the idea of the great exhibition of 1851 originated, and by the Society that its early organization was carried on. The London Exhibition of 1862 was also started and carried through its early stages by the Society, which has been closely associated in various ways with all the important London exhibitions which have since been held. There was thus good reason for the appointment of its Council as a Commission for Chicago, and the appointment has since been justified by the active interest taken in the work of the Exposition by the Council collectively and by its individual members.

When the Royal Commission was first appointed a grant was made of £25,000 ($125,000), with the idea that any further funds might be raised by payments to be made by exhibitors, a similar arrangement having been found to work very successfully in the case of the Paris Exhibition of 1889. In making so small a grant the government could not foresee the importance which the Chicago Exhibition rapidly assumed, and the fact was soon realized

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that the occasion was worthy of more liberal treatment. On the usual formal application being made to Parliament to authorize the payment, an animated debate took place, and a general feeling was expressed from all sides of the House that the grant ought to be considerabiy increased.

Increased it accordingly was to £60,000 ($300,000), a sum which, though much smaller than the amounts voted by other important contributing countries, experience has shown to be sufficient for the practical purposes of an exhibition. In 1878, at Paris, the expenditure was $335,000; in Vienna, $145,000; in Philadelphia $200,000, while at Paris in 1889 $150,000 proved quite sufficient. It is true that $630,000 were spent at Paris in 1867, but on that occasion the outlay was, according to general opinion, needlessly lavish.

It must also be remembered that the expenditure of the Government only constitutes a small portion of what may be considered the total expenditure on the Section, as all the costs except those of general administration and of the Fine Art Department are really borne by the individual exhibitors. In 1876 Sir Herbert Sandford made a careful inquiry as to the amounts expended by British exhibitors at Philadelphia. He found that the expenses incurred by about 600 exhibitors there amounted to $600,000, or an average of $1,000 each. The total expenditure, public and private, on the British Section at Chicago with about 800 exhibitors may therefore be estimated at over a million dollars. This amount is exclusive of the sums to be expended by the British colonies.

The total space occupied by Great Britain and the Colonies at Chicago will in all probability be more than 500,000 square feet, exceeding the amount occupied in Paris in 1878, viz., 360,000 square feet, the largest space ever before filled by the British Section at any exhibition. In Vienna 170,000 square feet were occupied, at Philadelphia 195,000, at Paris in 1889, 233,000. At Paris in 1889, Belgium occupied 120,000, the United States 113,000 square feet. No other country had more than 65,000.

Of the total area allotted to Great Britain and the Colonies at the Chicago Exhibition, it is probable that Great Britain alone will occupy about 300,000 square feet. While the remaining 200,000 will be occupied by contributions from the British Colonies, the great countries which, practically independent and

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

self-governing, lend, on such an occasion as the present, so much strength to the Empire, and enable it to hold a position that without such aid it could never pretend to occupy. This is an advantage which no other country possesses, and one of which we Britons may surely with some justice be proud. It is not very easy to ascertain accurately the way in which space was divided between the mother country and the Colonies in previous exhibitions. At Paris in 1889 the Colonies and India only took up 38,000 square feet of the total area of 230,000. At Philadelphia the proportion was very much larger, and the Colonies seem to have occupied more than a third of the whole space.

The principal contributions of Great Britain will be found in the following buildings: Fine Arts, Manufactures, Transportation, Agriculture, and Machinery. The exhibits in the Electricity *Building and the Mines and Mining Building will probably not* be numerous, while very little is likely to be sent to the Fisheries Building or to that for Horticulture.

There is every reason to believe that the pictures sent out from England will be thoroughly representative of the modern British School. This part of the work has been under the active superintendence of Sir Frederick Leighton, the President of the Royal Academy, who has taken great interest, and devoted much time and thought to it. Very few, if any, of our prominent living artists will not be represented, and the list of exhibitors already includes all the names best known to frequenters of English galleries. It may be worth noting that all the pictures shown will be the property of individual collectors or artists. The regulations of our National collections do not allow of any contributions from them. In this respect we are at a disadvantage as compared with other European countries.

After the Fine Arts, the most important British exhibits will naturally be found in the Manufactures Building. Pottery, furniture, jewellery, in fact all the applications of art to industry are well represented. Textile industries will make a creditable show, although here the effect of the tariff will certainly be felt. There will be many large and important contributions in the Department of Chemical Industry, and a good collection of sporting guns and rifles.

The classes included in the Department of Liberal Arts will be shown in the gallery of this building. We expect to have an

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

especially good collection of photographs, both professional and amateur; an interesting exhibit showing the growth and present condition of the modern newspaper; some fine maps, including contributions from the Ordnance Survey Office and from the Royal Geological Society; and some representative educational collections. Our fine art publishers will also contribute many important works to this department, and we shall have a select exhibit of scientific apparatus.

To the Transportation Building most of our great shipbuilding firms will send models of their work. The London & North Western Railway will send a locomotive engine and several carriages, to compare with similar exhibits from American and Canadian railways, and the Great Western will send what is now a relic of the past, one of its fine broad-gauge engines. We shall have a very large exhibit of bicycles and tricyles, which vehicles it appears are largely supplied by England to the States. As we do not export any raw products, we cannot expect, in the Agricultural Building, to compete even with our own colonies; but here our food industries will be fairly represented, though we shall be showing almost nothing in the way of agricultural implements.

Our machinery section will certainly suffer from the effects of the tariff and from the severe competition of American makers, although I am glad to be able to say that the machinery which will be sent over from Great Britain will be of a high class, and, for the most part, of an entirely novel character.

The contributions which have been prepared for the Women's Building by a committee of English ladies, presided over by Her Royal Highness Princess Christian, will be of a specially interesting character. Of these the nursing exhibit promises to be the most important. A special room has been most kindly granted for it by the Committee of Lady Managers, and we on this side hope it may prove not unworthy to be placed side by side with what will certainly be the magnificent exhibits of like sort now being prepared in the States themselves. The work of English women in painting, literature, lace, embroidery, decoration, etc., will also be adequately represented.

Among the Colonies the largest contributor will be Canada, which will fill about 70,000 square feet. New South Wales also promises extensive contributions and has obtained a space of over 50,000 square feet. Ceylon has been allotted about 20,000,

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Cape a little over 4,000, and Jamaica about the same. The other Colonies are on a smaller scale; they include British Guiana, Mauritius, Trinidad, British Honduras, Bahama, Barbadoes, Windward Islands, Bermuda and the Leeward Islands.

India, I am sorry to say, has only an area of 3,000 square feet in the buildings, a space very incommensurate with her importance, but it will be used to the best advantage for a fine display of her art ware. Canada will show in most of the buildings. The principal contributions of New South Wales will be minerals and wool. From the Cape a fine diamond exhibit may be looked for. Ceylon will show tea and precious stones.

For the offices and headquarters of the British Commission, Colonel Edis, the Honorary Architect to the Commission, has designed a sixteenth-century house, half timber above, brick and terra-cotta in the lower story. In compliment to Her Majesty, and by her express permission, the building has been named the Victoria House. The accommodation provided, besides offices, will include reception rooms, and it is hoped that English visitors to Chicago during the summer may find here a convenient centre.

Besides the Victoria House there will be several other buildings on the grounds. These will include one or more typical Ceylon buildings for the exhibition of Ceylon products and the sale of Ceylon tea and I hope at all events one similar building from India.

In the south-east portion of the grounds, a building is being erected for a working dairy similar to those which proved such interesting features at several of the London exhibitions, and in Paris in 1889. A kiosk will be built by the White Star Line, and a reproduction of Shakespeare's House by the *Illustrated London News*.

HENRY TRUEMAN WOOD.

II. THE FRENCH SECTION.

BY THEODORE STANTON, COMMISSIONER RESIDENT IN PARIS.

THE French display at Chicago may be divided into five sections, viz.: (1) the General Exhibit; (2) Fine Arts; (3) the Colonial Exhibit; (4) Woman's Work; (5) Social Economy.

The general exhibit, which covers the usual field embraced in International Fairs—agriculture, mines, machinery, manufac-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tures, electricity, public instruction, etc.—will be large and brilliant. The space in the building for Manufactures and Liberal Arts allotted to France was long ago far more than filled; and in the other buildings also France will make a very creditable show. Some months ago some forty different committees were constituted at Paris, whose members are the most distinguished specialists of the country; and these committees are zealously and methodically organizing the future exhibits of France.

But *the* feature of the French exhibit will be the fine arts section. M. Roger-Ballu, the French Art Commissioner for Chicago, writes me: "I am confident of the high value of our art exhibit. All of our artists, regardless of the distance which their works must traverse, have responded to our appeal with such eagerness that we have had to check their ardor. The administration, at the request of the jury, has had to limit each painter to three canvases. Our contemporary sculptors will be nobly represented, and the same thing may be said of the departments of engraving and architecture. The casts for the exhibition, which are being made in our museums, will enable visitors to Chicago to obtain an admirable idea of the glorious past of our French sculpture.

"Our best representatives of decorative art have also insisted on the honor of being permitted to display specimens of our national taste in this department. Never before in the history of French art exhibitions has decorative art participated in the same exhibition on an equality with the products of plastic art and those of pure imagination. At Chicago France will proclaim for the first time in a World's Fair the principle that the words 'industrial art,' and 'decorative art,' are only prenomens and that the word 'Art' is the family name."

Almost the whole of the eastern annex of the Fine Arts Building will be given up to France. The large gallery near the main portion of the building will be hung with the works of French masters loaned by the public and private collections in the United States. The French art section proper will consist of about five hundred canvases, one hundred and fifty engravings, one hundred and fifty drawings, water colors, etc., perhaps a hundred architectural designs, about the same number of pieces of sculpture, and the large collection of plaster casts, referred to above by M. Roger-Ballu and copies of many of the objects belonging to the

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

great Paris State Museums, which represent every epoch of French art from the eleventh to the nineteenth century. To these must be added the specimens of decorative art, and the valuable collections of porcelain sent by the celebrated State manufactories of Sèvres, Beauvais and the Gobelins. "Thus will be attained the aim of the organizers of our art exhibit," M. Antonin Proust writes me, "to form a well-balanced *ensemble* of French art in all its manifestations."

The French colonial section will probably be one of the most popular at Chicago, and is sure to be exceedingly picturesque. The Algerian and Tunisian exhibits will be displayed in part in the Agricultural Building and in part on the lake near the Live Stock Buildings. Two original and very pretty structures will be erected there by M. Maurice Yvon, the French architect, and son of the well-known painter of that name. The first of these will be a Moresque pavilion covering a surface of over four hundred square yards. The central *patio* will be surrounded by porticoes in the form of Tunisian arcades. These porticoes and the *patio* itself will be used for the display of exhibits.

On either side of this pavilion will be constructed *souks*, sheds open to the view, where native artisans can be seen at work making Moresque jewelry, pipes, slippers, etc., which will then be placed on sale. The whole pavilion will be surrounded by a sort of pent house covered with green tiles, and will be a faithful copy of that striking Moresque style of architecture, so rich and original, of which such fine specimens are to be found in the African possessions of France.

In this pavilion will be grouped the products of Algeria and Tunis, such as cork, olive oil, figs, dates, almonds, and particularly wines. "The Algerian and Tunisian wines," writes Mr. Henrique, who has charge of the Colonial exhibit, "already enjoy a high reputation; but it is believed that the day is not far distant when they will become a still more formidable rival of the wines of Southern Europe." Among the African vineyards that will be represented at Chicago not a few, it is curious to note, are owned by Arabs; for, notwithstanding the Prophet's formal prohibition concerning wine, the number of Mohammedan wine-growers is increasing every year.

The second building to be erected by the Colonial section is

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Annamite Pavilion, which will cover an area of over two hundred square yards. It will consist of one grand central room with a ceiling of richly sculptured native wood. Statues of Buddha will flank the side entrances. The roof, which will be covered with Annamese tiles, will have a ridge of colored *faïence* on which are depicted chimeras, dragons, and other pagan monsters. This, it is believed, will be the first Annamite pagoda ever seen in the United States.

Around these two structures an Algerian garden will be laid out containing North African flora. The principal French colonies that will contribute to the exhibits displayed in these pavilions are, besides Algeria and Tunis, Martinique, Guadaloupe, Guyana, Congo, New Caledonia, Tahiti, and French India. They will be represented by from six to seven hundred exhibitors, who will send the most diverse products. Thus from Indo-China (Annam, Cambodia, Cochin China, and Tonkin) will come silk embroidered tapestries, inlaid furniture, rice, tea, and coal; from the Pacific dependencies, beautiful specimens of mother-of-pearl and of New Caledonian nickel; and from the Antilles, sugar, rum, tobacco, coffee, etc.

The social economy exhibit at Chicago will be a *résumé* of the one which attracted so much attention from the thoughtful visitors to the Paris Exposition of 1889. "The aim of the organizers of this exhibit," M. Lami, the active secretary of the committee, writes me, "is to show that in the field of social science France means to retain the high rank which she has always held." The number of exhibitors is quite large, notwithstanding the fact that many of them are charitable societies of one kind or another with very small incomes.

Besides these societies, several large French manufacturers have decided to make an exhibit of the *ensemble* of the various institutions which they have created for the purpose of ameliorating the moral and material condition of their workpeople. "In 1889 we found it difficult," M. Lami continues, "to make plain to the eye attempts to better the situation of our laboring classes; it seemed impossible to exhibit ideas. But since then we have found a way to render them tangible—we have had recourse to graphic charts. So we intend sending to Chicago large tables tastefully executed, which will enable the visitor to perceive at a glance the advantages resulting from the benevolent institutions

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

founded by far-seeing capitalists, economists and philanthropists—such, for instance, as coöperative societies, arrangements by which the workman participates in the profits; cheap houses for laborers, benevolent societies, etc."

The woman's exhibit will consist of beautiful laces and fans, ancient and modern; artificial flowers, specimens of fine linen, several examples of decorative art, Sèvres vases, embroidery, fancy work, some panels by Mme. Lervoudier, and specimens of the art work of the chief feminine artists of France, such as Mme. Léon Bertaux, the sculptor, and Mesdames Jehanne Mazeline, Madeleine Lemaire, Demont-Breton, Rougier, Louise Abbema, and other painters. Books written by women and documents concerning charities for, or directed by, women will also be exhibited. "We intend to show," the secretary of the committee writes me, "that the French woman, in every condition of life, from the lowest station to the highest, is an active, intelligent, hardworking member of society, who, when necessary, is able to support herself, and who, when blessed with fortune and leisure, displays an artistic and literary intelligence of a high order."

The Woman's Committee is made up of a body of able and distinguished ladies, with the wife of President Carnot at their head. Several meetings of this committee have been held in the Elysée Palace, under the presidency of Mme. Carnot, and the members are divided into a number of sub-committees that are harmoniously working with much ardor. It is safe to predict, therefore, that the French feminine exhibit in the Woman's Building and in the other departments of the Fair will be not inferior, at least, to those of the other European countries.

A word remains to be said of two or three other features of the French exhibit. Tha series of international concerts, organized for the summer of 1893 by Mr. Theodore Thomas, will call to Chicago one or two of the leading French composers. Mr. George H. Wilson, Secretary of the Musical Department of the Exposition, has already secured the promised presence of M. Camille Saint-Saëns, and it is hoped that M. Massenet will also accept the invitation which has been extended to him.

Several important French contributions will be made to the United States government exhibit, organized by Mr. William E. Curtis of the State Department. Thus, Count Rosellely de Lorgnes, the biographer of Columbus, sends a photograph of a

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

rare portrait of the discoverer, while the Duke de Talleyrand lends the original of another famous Columbus portrait.* A copy of the celebrated Behaim terrestrial globe is being made at the Paris National Library under the direction of Mr. Henry Vignaud.

And last, but by no means least, is the contribution to the department of fine arts made by the American artists residing in France. If I am not mistaken, these Franco-American pictures and sculptures are to be placed next to those of France in the Gallery of Fine Arts in Jackson Park, in order to mark the close connection between master and pupil and to show that this American school is only an off-shoot of the great French school. Hence it is that I mention here, with a word, the fine arts exhibit of the American painters and sculptors of France.

Mr. Charles Sprague Pearce, the well-known artist, and President of the Paris American Jury, writes me as follows: "I think the American artists here will make a very good exhibit. Of course, many of the works which will be sent to Chicago are known already. But there are also many new ones. The limited amount of space at our disposal has made it necessary for the jury to set aside several very meritorious works. But the same thing is true in the case of the foreign art sections. Many French artists, who enjoy an international reputation, and who wished to send eight or ten works, have had to content themselves with two. So we cannot complain of our lot. The collection as a whole is very good and some of the productions are truly remarkable." It will consist of about one hundred and thirty oil paintings, six water colors, nine pastels, one group of architectural drawings, one group of etchings and about fifteen pieces of sculpture.

THEODORE STANTON.

* This portrait was accompanied by the following letter from the Duke, addressed to the chargé d' affaires of the American Legation in Paris, Mr. Henry Vignaud: "During the long years of my childhood and youth spent with my uncle, Prince de Talleyrand, I often heard him speak with gratitude of the warm reception accorded him by several families, during the sojourn which he made in America at the end of the last century. He used to speak with much feeling of the ties of friendship which united him with Colonel Hamilton, one of the founders of the grand republic. These recollections, which are still fresh in my mind, are an additional reason why I am willing to grant the request of your Government."

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

NOTES AND COMMENTS.

MISTAKES—BUT NOT OF MOSES.

THE November number of THE NORTH AMERICAN REVIEW contained an article from the pen of Col. R. G. Ingersoll, entitled "Ernest Renan," in which there is not a single quotation from the Bible that is correctly made. As a sample I submit the following:

Ingersoll: "It is asserted by Christians that the Ten Commandments are the foundation of all law . . . and before that time the world was without knowledge of justice or mercy. . . . Consequently before that time there had been proclaimed no law against the worship of other gods or idols. . . . Moses had been on the mountain talking with Jehovah . . . started down with the tables containing the ten commandments . . . heard music and dancing . . . saw the golden calf . . . got angry and broke the tables of stone and prepared to punish the Jews. . . . Remember that they knew nothing about this law and could not have known that it was wrong for them to worship idols, and yet Moses killed about thirty thousand of these people for having violated a law of which they had never heard; a law known to only one man and one God. Nothing could be more unjust, more ferocious than this."

Turn to the Bible:

Exodus xix, 3: Moses goes up into the mountain.

7—8: Moses returns and tells the people what God had said and the people pledge to obey.

9: Moses goes to the mountain again.

14: Moses returns and tells the people what God said.

19: Moses talks with God in the presence of the people.

20: Moses goes back to the mountain.

25: Moses goes down and tells the people what God said.

Exodus xx: Moses in the mountain receives the Ten Commandments.

Exodus xxi—xxii—xxiii: Moses in the mountain receives all the laws for governing the Israelites.

Exodus xxiv, 3: "And Moses came and told the people all the words of the Lord and all the judgments; and all the people answered with one voice and said all the words which the Lord hath spoken will we do."

4: "And Moses wrote all the words of the Lord."

5—6: A great feast prepared and a covenant entered into with God.

7: Moses reads to all the people what he had written, and all the people covenant to do all that the Lord had said.

The people had now received the Ten Commandments and all the other laws given by God to Moses, and had pledged to obey. Let us proceed:

Exodus xxiv, 12: God calls Moses up into the mountain again.

13: Moses and Joshua go up into the mountain and remain there forty days and nights. In this interview God is giving Moses instructions as to how the Tabernacle shall be built, furnished etc., as well as how the priests shall be appointed.

Exodus xxxi, 18: "God gave to Moses two tables of testimony, tables of stone, written with the finger of God."

Exodus xxxii, 1: Aaron and the people fashion the golden calf.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

15 : Moses and Joshua go down the mountain.
19 : Moses breaks the tables of stone.
28 : Moses killed about three thousand.

Let us now condense the comparison :

Ingersoll : " Moses killed about thirty thousand of these people for violating a law of which they had never heard; a law known to only one man and one God."

The Bible : Moses killed about three thousand for deliberately rebelling against God, forgetting all his mercies, and violating the laws which had lately been given to them, and breaking a solemn covenant which they had taken within forty days. Moses simply applied a law which is repeated in the New Testament : " If we sin wilfully after we have received the knowledge of the truth, there remaineth a certain fearful expectation of judgment to come."

Further comment is unnecessary. Colonel Ingersoll's other quotations are as false as the one we have here given. I would recommend him to " search the Scriptures."

CHARLES W. TRICKETT.

SCIENCE AND THE WOMAN'S QUESTION.

THE claim of equal rights for women has been attacked from various points of vantage. We have had the æsthetic argument, the religious argument, the philosophical argument, and the political argument. Yet all these are merely beatings about the bush—they do not touch the kernel of the subject. They are, moreover, as unworthy of reply as were the opponents whom Frederick the Great meant when he uttered the apothegm in military tactics : " Never haggle with the enemy's light infantry."

If there be any real enemy of woman's rights, as it is called, that enemy is certainly not æsthetics, not religion, not philosophy, not politics, but science; it is the scientific field alone from which the claim can be attacked, if at all. Is science, then, our enemy, and are we women to meet it forever with the cry of *Ecrasez l'infame?* I deny that we are in any such danger. I propose even to show that, instead of being hostile to the claim which women make of equality with man, science is in its favor and has already placed it, for those who look deeply enough, upon an impregnable basis. I approach the subject, moreover, not in the timid belief that our modern women have overstated their case, but in the conviction that they have not yet fully realized its overwhelming strength.

It will be admitted, I think, that there is no inferiority in sex *per se*, and that least of all can such inferiority be laid at the door of the maternal function. Biology teaches that sex is a differentiation in the interest of the species —an unlikeness wrought partly by and partly for those complementary functions on which the perpetuation of the kind in the higher organisms has come to depend. It is not that to the masculine sex superior tasks have been assigned, and to the feminine inferior, but it is that there has been a division of functions simultaneously with structural differentiation for the performance of those functions. So that if nature has withdrawn from woman those ruder capacities for active life that have been conferred upon man, she has *en revanche* given to the more delicate sex that function which is not exceeded in its importance by any capacity exercised by men, namely, the work of bearing and rearing the new generation.

If, then, sex means simply division of labor, and not subordination of man to woman, or of woman to man, whence came the disabilities under which women have suffered in the past, and how, if they are still to be the

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

mothers, the child-rearers, the home-keepers of the race, do they look forward to the complete removal of these disabilities? We shall prepare ourselves for the reply to this question if we bear in mind that the so-called inequality of woman in the past has been no real inferiority, but merely a temporary subordination due to the maternal function, and to the relation of that function to social conditions. We shall find, moreover, at the very threshold of our inquiry, that the extent to which the function of motherhood absorbs the energies of woman has varied with the social state; that improvement of such state has set free for non-maternal activities an ever-increasing amount of such energies, and that woman reaches the true expression of her equality with man just as fast as the race becomes civilized.

Sociologists are agreed that the position of woman, even as a mother, has been largely determined by the stage of development reached by society. Generally speaking, the militant condition goes hand in hand with the subjection of women; in other words, where the tribal group or nation is constantly engaged in the activities of war, there the mothers must occupy an inferior position, and must undergo all the disabilities of that position. It is not that in the fighting stage women are oppressed by men, but it is that both men and women have their status determined by the character of the prevailing civilization. On the other hand, progress from the militant to the industrial type of society is, generally speaking, accompanied by the gradual emancipation of women from such subjection, and the gradual recognition of her equality with man.

Let us now consider in detail the various ways in which advancing civilization brings about this important change in the status of women. There is first of all a decrease in the birth rate. It is a biological law from the operation of which even self-conscious man is not excepted, that the rate of reproduction is adjusted so as to maintain the species. Where a tribe or nation is constantly at war, there will be little or no check upon multiplication, and the burdens of motherhood will be many and severe. Where, on the contrary, the peaceful state of society has been ushered in, the demand for new individuals to maintain the kind will fall to its minimum, the natural checks upon multiplication will come into play, and woman will be relieved of some of the exhausting labors of child-bearing and child-rearing. The various developments, moreover, which civilization brings in its train – such as sanitary improvements, discoveries in the medical and surgical arts, inventions of all kinds, and all perfecting of the methods of living—tend powerfully to make life more lasting and secure; to increase the chances of the survival of all the children born, and thus help on the emancipation of women. All social progress, in fact, furnishes illustrations of the Spencerian formula that "advancing evolution is accompanied by declining fertility," that "genesis decreases as individuation increases."

The passing away of international warfare not only relaxes the subordination of woman in the way indicated, but sets free some of the energies of the mother for activities other than those which are maternal and domestic. Simultaneously with the advent of the industrial state and the diversion of minds from the acts of war to those of peace, there come numerous occupations in which women find it possible to engage. The new social condition, in fact, works a complete change in the attitude of women towards extra-domestic employments. In a fighting state they are compelled to regard marriage as their only means of livelihood, and this is still true of the great

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

majority of women in the militant societies of Europe; but in the industrial state they cease to be thus limited. There is the further result that non-militant, industrial life gives woman those opportunities of mental development which ages of exclusive subjection to the duties of the household have denied her. In the industrial field, under the freer conditions of the non-militant state, she has already—in the United States, for example—utilized these opportunities in the development, not only of great industrial expertness, but also of remarkable intellectual power.

But there are some who, while generally favorable to the cause of women, will be inclined to doubt whether the biological truths which justify them in entering into occupations once reserved exclusively for the men entitle the gentler sex to equality also in political privileges—whether, in a word, the claim of women to the suffrage is the equally natural and inevitable outcome of the evolutionary process.

Mr. Spencer ("Justice," p. 166) denies the voting privilege to women on the ground that they cannot fight. "Unless, therefore," says he, "women furnish contingents to the army and navy such as men furnish, it is manifest that, ethically considered, the question of the equal 'political rights,' so called, of women cannot be entertained until there is reached a state of permanent peace." Now, Mr. Spencer, by implying that men will continue to vote even in a state of permanent peace, shows that the price which they pay for the voting privilege is to be demanded only during the continuance of international antagonisms. It is to be noted, moreover, that even in the case of men, and during the continuance of militant conditions, the duty is not either an absolute or an inevitable one. Just as certain persons are exempted by law from serving on juries, etc., while retaining the privilege of voting, so men may be exempt from military duty in time of war without losing their right to the suffrage. If it be claimed that all women could not find substitutes, the fact that some men can is sufficient to deprive Mr. Spencer's rule of that universal validity on which its argumentative value so obviously depends. Yet this aspect of the question may be altogether waived in view of the circumstance that women even now perform a service of much more importance to the race than the service of bearing arms. They bear children. And if it is to be urged that, because women do not imperil their lives as soldiers they are not entitled to equal political privileges, it may with like justice be argued that, because men do not pass through the perils of child-birth, they ought to be denied the privilege of voting.

In reality, women do "furnish contingents" to the army and navy, and furnish them at the peril of their lives. At the same church service in time of war you may hear the prayer for women in travail and for the army on the field. So that, in his haste to discover some things which men do of which women are incapable, Mr. Spencer has overlooked one function, of pre-eminent importance for the race, in the discharge of which women naturally excel, but for which men have hitherto not shown the slightest capacity. If, then, women have no right to vote, it is certainly not because they cannot become soldiers, for this logic would deprive men of the suffrage on the ground that they cannot bear children.

But Mr. Spencer, half conscious of the weakness of his position, urges that woman cannot be intrusted with a vote on the additional ground that she is emotional, a worshipper of power, and not judicially minded. This is on a par with the argument made by the anti-abolitionists that the slave could not be safely intrusted with his freedom; for just as the very quali-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ties which had been produced by slavery were invoked to prove the incapacity of the colored race for freedom, so the feminine qualities that have been wrought by centuries of the subjection of women are to-day used as an argument why that subjection should continue.

I have thus sought to show—more by the suggestion of an argument than by any detailed elaboration of it—that the subjection of women in the past has been due, not to any natural inferiority of women, but primarily to the absorption of their energies by the maternal function, and secondarily to the social condition determining the degree of the exercise of that function. But I have also claimed that, with the improvement of the social state, setting free more and more of the energies of woman for other than purely domestic activities, and making possible her mental and physical adaptation to such activities, there has come, by a perfectly natural and necessary process, that change in the position of woman which even in its incomplete stage we are accustomed to call her emancipation.

I would finally urge that the claim made in these days of woman's equality with man is simply the expression and outcome of that revised meaning which modern life is giving to the function of maternity, and I hold that the movement thus begun, and so manifestly sanctioned by the evolutionary process, will be carried on to a sure and complete triumph, not by the generosity of men, and not by the advocacy of women, but by the whole of the influences that tend to improve the social state—in a word, by ever-advancing civilization. It is not that the woman of the future will cease to be a mother, but that motherhood will grow less and less arduous, and that its past disabilities will diminish until they finally disappear. The great problem of the age—how to emancipate women and preserve motherhood—is already more than half solved. The world has no longer need of the enormous sacrifices through which our sex has replenished the race in the past; the black eras of strife and cruelty are gone, and in the perfect social order which is coming, woman is to do something more than to suffer and toil—something more than to furnish her contingents to the industrial armies and navies of the world. She is to live.

LYDIA LVOVNA PIMENOFF.

FROM RENAN'S POINT OF VIEW.

"THERE does seem to be little that is even intellectually satisfying," writes John Fiske, the eminent evolutionist, "in the awful picture which science shows us, of giant worlds concentrating out of nebulous vapor, developing with prodigious waste of energy into theatres of all that is grand and sacred in spiritual endeavor, clashing and exploding again into dead vapor balls, only to renew the same toilful process without end,—a senseless bubble-play of Titan forces, with life, love, and aspiration brought forth only to be extinguished. The human mind, however 'scientific' its training, must often recoil from the conclusion that this is all; and there are moments when one passionately feels that this cannot be all. On warm June mornings in green country lanes, with sweet pine odors wafted in the breeze which sighs through the branches, and cloud shadows flitting over far-off blue mountains, while little birds sing their love songs, and golden-haired children weave garlands of wild roses; or when in the solemn twilight we listen to wondrous harmonies of Beethoven and Chopin that stir the heart like voices from an unseen world; at such times one feels that the profound-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

est answer which science can give to our questionings is but a superficial answer after all. At these moments, when the world is fullest of beauty, one feels most strongly that it is but the harbinger of something else,—that the ceaseless play of phenomena is no mere sport of Titans, but an orderly scene, with its reason for existing, its

'One divine far-off event,
To which the whole creation moves.'

"Difficult as it is to disentangle the elements of reasoning that enter into these complex groups of feeling, one may still see, I think, that it is speculative interest in the world, rather than anxious interest in self, that predominates. The desire for immortality in its lowest phase is merely the outcome of the repugnance we feel towards thinking of the final cessation of vigorous activity. Such a feeling is naturally strong with healthy people. But in the mood which I have tried to depict, this feeling, or any other which is merely self-regarding, is lost sight of in the feeling which associates a future life with some solution of the burdensome problem of existence."

The thought which Mr. Fiske puts thus strongly and clearly—the repugnance to acknowledging as possible, quite apart from the question of personal immortality, so purposeless a career for the universe, with so much in it of dramatic suggestion—is a thought that to the average mind seems accentuated by the discoveries of modern science. The unity of nature, in substance and process, as revealed by these discoveries, impresses such a mind as having a distinctly teleological bearing. If through a wonderfully sensitive although impalpable luminiferous ether "every part of the universe shares in the life of all the other parts"; if the most distant stars show the same chemical composition as our own little abode called Earth; if everywhere we find evidence that the process of world-making is the same, by a similar development out of nebulous vapor;—the conclusion that universal unity has a teleological significance is for the average mind immensely strengthened. Put over against this significance Mr. Fiske's eternal see-saw of development and destruction as the "superficial" interpretation by science of this purposeless universe, and the instinct of revolt against so ignoble and unworthy, not to say monstrous, an interpretation is infinitely intensified.

Given a man of unfaltering loyalty to the conclusions of science wherever they may lead him; a man of unreserved agnosticism so far at least as the record of his writings commits him; a man of so powerful a scientific imagination that, it has been said, he anticipated Darwin and Spencer; a man whose literary genius was poetical in its warmth and glow; a man who lived in history and made it live; a man of charming personality, to whom mere existing was a perpetual source of interest and pleasure—in short, a man who is a wonderful combination of scientific imagination, literary art, scholarly training, historical insight, and individual optimism, and confront him with the "intellectually unsatisfying" picture of the tendencies of phenomena as seen by the light of science, and what has M. Renan to offer of suggestion or hope?

The answer is a curious one, and is given in an article contributed to the *Revue des Deux Mondes* a great many years ago. This answer is condensed by E. P. Whipple in an essay on "Religion and Scientific Theories," where it is referred to as an article "of which Renan's admirers equally with his adversaries seem to be strangely ignorant." Mr. Whipple in summarizing Renan's article thus gives its substance: "Science shows that, in the

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

slow but sure operation of natural laws, the solar system must be destroyed. A million years is a comparatively short period in the figures of astronomy. If scientific men have during the past hundred and fifty years made such enormous advances in the discovery, control, and application of the forces of Nature, why should they not, in the course of a million years, contrive to arrest the seeming tendency of our solar system to self-destruction? In a century and a half much has been done; what may not be done in ten thousand centuries in a 'square fight' of the quick faculties of mind against the slow operations of matter? Our foremost men of science are mere babes in knowledge, as well as in power, compared to the men who will rise in the next thousand years, if science and invention go on at their present continually accelerated pace. Why, on this principle, should not man at the end of a million years obtain control of the whole solar system?'

The seriousness with which John Fiske draws the gloomy picture, has been purposely put first to heighten the contrast to this flippant, almost jaunty, and typically French, suggestion of a possibility of escape. Its obvious inadequacy in concerning itself only with the little corner of the universe in which man is directly interested, when the sweep of those great apparent tendencies stops not short of the farthest bounds which science can discern, need not be commented on. The whole suggestion is so fanciful and airy while appealing to a scientific possibility for basis, is so ingenious and audacious yet unreal in substance, as to affect one like a bit out of one of Jules Verne's stories. It indeed seemingly places mind above matter, yet it really places the soul below matter—a refinement of materialism. For its suggestion goes no deeper than the problem of continuing the material universe, and ignores all the inner questionings and inspirations that lend to the universe a fitting dramatic purpose.

If it be simply a question of averting the apparent crushing of the empty shell there is but little in M. Renan's suggestion beyond flattery of man's puny powers—a flattery that is, even if true, a mockery. What remains but the apostrophe of Henley, apostle of modern pessimism:

"Maker and breaker,
I am the ebb and the flood
Here and Hereafter.
Sped through the tangle and coil
Of infinite nature,
Viewless and soundless I fashion all being.
Taker and Giver,
I am the womb and the grave,
The Now and the Ever."

The attitude of a gifted mind towards the sum of phenomena, as if mere greatness and vastness argued a difference in kind and not of degree, is largely determined by the predominating influence of an age. At times it may lead to an exaggeration of man's greatness, at times to an exaggeration of his littleness. Green, the historian, points out that the spirit of the last quarter of the sixteenth century, culminating in its wonderful display of intellectual activity in learning, literature and travel, so dominated Shakespeare that mere theological questions had for him no apparent interest. So absorbed was the great master in Man, in the infinite variety of his character and power, that Man's relation to the universe seemed merely incidental.

By the reverse of this, one—like Renan,—dominated by the scientific

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

spirit of the age, may indeed originate an audaciously brilliant and ingenious theory of the power that science may confer on Man—a theory that seems to raise him to the position of a god in one of the old mythologies. But by laying the stress on what Man can do, rather than on what Man is, such a theory really dishonors him, offering no further basis for a belief in "the reasonableness of the universe," without which all speculation is materialism, gloss it over as one may. It leaves out of account "life, love and aspiration," which alone ennoble existence in a universe, however grand its phenomena, or vast its extent, or perfect its harmony.

This contrast between the philosophy which contents itself with mere phenomena, and the philosophy which sees in man the greatest phenomenon of all, and pries into the secrets of existence, is as old as the ancients. Thus Seneca, as translated by quaint Thomas Lodge, writes to Lucillius of a broad spirit of research: "This is the more high and courageous; it giveth itself a larger scope, and not content with that which she discovereth by the eyes, suspecteth that there is somewhat more greater and more fairer, which Nature hath locked from our sight."

ARTHUR REED KIMBALL.

THE AMERICAN COMMON SCHOOLS.

DANGERS threatening the common schools in this republic, arising from religious controversy, have from time to time appeared, and in most instances have been happily and successfully averted.

The principal assaults, and they have recently taken on great boldness, have been in the direction of demands for the division of the school fund on denominational lines, in order that systematic sectarian religious instruction might be given at the expense of the State. But these demands cannot be assented to without annihilating the common school system, and without the destruction of the conceded American principle of the complete separation of Church and State.

The legal status of the common school in each State, from both the secular and the religious standpoint, is dependent upon that State's constitution and legislative enactments. There are in these interests certain fundamental principles common to the entire country, certain uniform laws bearing upon the common-school system, giving it a kind of autonomy, and, so to speak, establishing a non partisan and unsectarian republic of letters within the body politic.

The people dividing as they will into religious sects, the individual interests of each sect must be advanced by its own effort and at its own cost. The common-school system uninterrupted and honestly worked has all the power necessary to the attainment of its conceded and legitimate purpose, and that is, to largely promote the well-being of the State through an intelligent and moral citizenship.

Deriving from the people the means for its support, it has legal authority and accountability and moral responsibility. Supported by all, and free to all, there must be nothing about it to which any unprejudiced citizen of the republic can rationally object, and each must use it so as not to interfere with the rights and duties of others.

The governmental power which assesses and collects taxes cannot be employed to promote or repress the interest of any secular or religious section of the citizenship, or for any purpose less than the impartial and highest good of all. Religious education belonging primarily to the family and

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Church, the State, guaranteeing religious liberty, permits all denominations who desire to do so to establish church schools, colleges, and seminaries at their own expense.

The State cannot oblige the Church to teach the rights and needs and duties of citizenship. This obligation involves both the rights of the child and of the State, and rests largely upon the parent. The State can compel the performance of this obligation and can secure these rights by the enactment and enforcement of compulsory laws, binding upon parents and guardians, as the condition of the free existence of civil and religious liberty. If the Church pretends in its schools to give the education that the State rightfully requires, then the State must know the fact by having supervisory access to these schools. When the limits of Church and State authority in matters of education are properly defined, in accord with the purpose and spirit of republican institutions, and when by each their normal and legitimate work is honestly performed, harmony will ensue. The American people will secure this result even if they are compelled to conquer a peace, and make that peace perpetual by constitutional entrenchments.

Compulsory education laws are presupposed in the right of a people to govern themselves. Such laws are only opposed in this country by those who would employ ecclesiastical compulsion to secure attendance on sectarian schools. We trust the day is not far distant when the scope of education which the State has right to require in its common schools will be definitely and uniformly determined, and the debate concerning the attitude of the State towards church schools and concerning the opposition to state schools and to compulsory laws and their enforcement will be ended. But in this debate the State will assuredly insist upon its right and duty to secure for its youthful citizens efficient elementary education, including the history and laws of the country.

Whenever the issue is raised, the great majority of our thoughtful, patriotic citizens will be found tenaciously adhering to substantially the following platform of purposes and principles concerning the American free common school system :

A knowledge of the exact situation by all intelligent citizens, all genuine Americans native born and naturalized, in every community, resolving themselves into a committee of the whole, to jealously watch and loyally guard these nurseries of our citizenship, and whenever they are assaulted conducting the defence without malice, without bigotry, without fear, without compromise.

An honest recognition of the commendable features of our school system.

An equally honest recognition of the defects, with willingness to learn from any and all other systems, which, in any of their features, may suggest needed improvements.

A readiness to face the patent defects, not attempting to cover but to courageously conquer them.

The best and most thorough instruction in every department, moral, mental, industrial, physical, placing the system by its preëminence out of the field of anything approaching general competition.

Insist upon the absolute necessity of the precedence and mastery of the National language.

Require the careful training of all the children and youth in the fundamental political doctrines and moral axioms and principles on which the free American government rests, as the only adequate method of securing that respect for the opinions and circumstances of others, readily inculcated in youth but difficult to acquire when character has been shaped and determined.

Let the people see to it that the practice of economy for political purposes does

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

not commence in any community with the schools, but provide without prodigality and with liberality, for both school buildings and school support.

Let no political, or ecclesiastical or atheistical outcry, from whatever source against religious instruction in the schools be the means of banishing a high morality from the character of the teaching or from the qualifications of the teacher. The American idea is that the school shall be a civil educator to make good citizens, and good citizens must possess moral character. The schools will inevitably be a reflex of the noble, cultured, moral characters of the instructors.

Banish absolutely all sectarianism from the management and teaching of these public schools, and all evidence the structures used, or in the garb of teachers, that would suggest sectarian relationship, or hint at the remotest connection of Church and State.

Let National, State, county and municipal treasuries be jealously guarded against all attempts or pretexts for the division of the sacred funds which they hold for the support of common schools.

Let all partisan political control be banished from the management of the schools.

Let wise and fair compulsory education laws be speedily perfected and judiciously enforced.

Let all schools, where citizens are being trained for the performance of their duties as sovereigns in the republic, come under the intelligent supervision of the governmental authorities, as a rightful measure of safety, and as the only method of approximating that practical uniformity of results essential to popular education in a republic. One of the principal functions of the common school is to Americanize the children of foreign birth or parentage, and by its processes of digestion and assimilation make them a healthful part of the body politic. Thus only can the dangerously heterogeneous be made safely homogeneous.

The American flag ought to float over every public-school building in the republic while the schools are in session, as an object-lesson in patriotism for childhood and youth, and as a symbol to the world that we consider these buildings the fortresses of our strength, from which go forth the forces which are the best protectors of our free institutions.

JAMES M. KING,
General Secretary, "The National League for the Protection of American Institutions."

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED